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No. 45] NEW DELHI, NOVEMBER 10—NOVEMBER 16, 2024, SATURDAY/KARTIKA 19–KARTIKA 25, 1946

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
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कार्मिक, लोक शिकायत और पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 1 फरवरी, 2024

का.आ. 2070.—केंद्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का2) की धारा 24 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री संजय जैन, वरिष्ठ अधिवक्ता को मामला सं .आरसी 2172015ए0002सीबीआई/एसी-।।/एनडी (अंतरिक्ष देवास मामला) में, जिसे दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा विशेष न्यायाधीश, सीबीआई, राउज एवेन्यू जिला न्यायालय परिसर, नई दिल्ली में संस्थित किया गया था, तत्समय प्रवृत्त विधि द्वारा किसी अपील या विचारण न्यायालय में इस मामले से उद्भूत अपील, पुनरीक्षण या अन्य मामलों में अभियोजन का संचालन करने के लिए, 25 अक्तूबर, 2023 से तीन वर्ष की अवधि के लिए या मामले के निपटारे तक, इनमें से जो भी पूर्वतर हो, विशेष लोक अभियोजक नियुक्त करती है ।

[फा. सं. 225/17/2020-एवीडी-II]

कुंदन नाथ, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 1st February, 2024

S.O. 2070.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri Sanjay Jain, Senior Advocate as Special Public Prosecutor for conducting the prosecution of case No. RC 2172015A0002CBI/AC-II/ND (Antrix Devas case), instituted by Delhi Special Police Establishment (Central Bureau of Investigation) in the Court of Special Judge, CBI, Rouse Avenue District Courts Complex, New Delhi and any appeal, revision or other matters arising out of this case in any appellate or revisional Court established by law for the time being in force, for a period of three years with effect from 25th October, 2023 or till disposal of the case, whichever is earlier.

[F. No. 225/17/2020-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जुलाई, 2024

का.आ. 2071.—केन्द्र सरकार एतद् द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री पी. प्रसन्ना कुमार, अधिवक्ता को, कर्नाटक उच्च न्यायालय, बेंगलुरू और उसकी धारवाड न्यायपीठ के समक्ष दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित किए गए केंद्रीय अन्वेषण ब्यूरो प्रकरण आरसी-17(एस)/2019-सीबीआई/एसीबी/बीएलआर (सीबीआई, एसीबी, बेंगलूरू बनाम बस्वराज शिवप्पा मुतागी- योगेश गौडा मर्डर केस), सीसी सं. 565/2021 और सीसी सं. 1856/2021 में अभियोजन और विधि द्वारा स्थापित किसी अपील या पुनरीक्षण न्यायालय में किसी अपील, पुनरीक्षण और अन्य विषयों का संचालन करने के लिए, मामलों का निपटान होने या अगला आदेश होने तक, जो भी पूर्वतर हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/20/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th July, 2024

S.O. 2071.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri P. Prasanna Kumar, Advocate as Special Public Prosecutor for conducting prosecution of Central Bureau of Investigation Case RC-17(S)/2019-CBI/ACB/BLR (CBI, ACB, Bangalore Vs. Basavaraj Shivappa Mutagi-Yogesh Gowda Murder Case), CC No. 565/2021 and CC No. 1856/2021 instituted by the Delhi Special Police Establishment (Central Bureau of Investigation), in the High Court of Karnataka at Bangaluru and its Bench at Dharwad and any appeal, revision and other matters arising out of the case in any Appellate or Revisional Court established by law, till disposal of the case or until further orders, whichever is earlier.

[F. No. 225/20/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 जुलाई, 2024

का.आ. 2072.—केन्द्र सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री एन. बास्करन एवं श्री बी. मोहन, अधिवक्तागण को माननीय मद्रास उच्च न्यायालय के समक्ष दिल्ली विशेष पुलिस स्थापन (केन्द्रीय अन्वेषण ब्यूरो) द्वारा अन्वेषित मामलों से उत्पन्न अभियोजन, अपील, पुनरीक्षण और अन्य मामलों तथआ इनसे जुड़े या इनके आनुषंगिक मामलों का संचालन करने हेतु, नियुक्ति की तारीख से तीन वर्षों की अवधि तक या अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा .सं .225/19/2024-एवीडी-II]

कुंदन नाथ, अवर सचिव

New Delhi, the 4th July, 2024

S.O. 2072.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (2 of 1974), the Central Government hereby appoints Shri N. Baaskaran and Shri B. Mohan, Advocates as Special Public Prosecutors for conducting the prosecution, appeals, revisions and other matters arising out of the cases investigated by the Delhi Special Police Establishment (Central Bureau of Investigation) and for matters connected therewith or incidental thereto, in the High Court of Madras, for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/19/2024-AVD-II]

KUNDAN NATH, Under Secy.

नई दिल्ली, 4 सितम्बर, 2024

का.आ. 2073.—केंद्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार कार्मिक, लोक शिकायत और पेंशन मंत्रालय (कार्मिक और प्रशिक्षण विभाग) की अधिसूचना सं. का.आ. 934 तारीख 7 जून, 2018, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 16.06.2018 में प्रकाशित हुई थी, में निम्नलिखित संशोधन करती है, अर्थात्:-

2. उक्त अधिसूचना,-

(क) क्रम सं. (2) में "आरसी 3 ई 1998" अक्षरों, अंकों और कोष्ठक के स्थान पर "आरसी-2 (ई)/1998" अक्षर, अंक और कोष्ठक रखे जाएंगे और 7 जून, 2018 से रखे गए समझे जाएंगे।

(ख) क्रम सं. (6) और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम सं. और प्रविष्टियां रखी जाएंगी, और 7 जून, 2018 से रखी गई समझी जाएंगी, अर्थात्:-

"(6) आरसी-6 (ई)/2006-ईओडब्लयू-II, मैसर्स दुर्गा ओवरसीज प्राईवेट लिमिटेड सीबीआई बनाम प्रवीण चुघ" ।

(फा. सं. 225/14/2017-एवीडी-II)

सत्यम श्रीवास्तव, अवर सचिव

स्पष्टीकारक ज्ञापन– अधिसूचना का.आ. 934 तारीख 7 जून, 2018 में क्रम सं. 2 और क्रम सं. 6 तक कतिपय टंकण संबंधी त्रुटियां हो गई हैं। उन्हें दूर करने के लिए उक्त अधिसूचना का 7 जून, 2018 से भूतलक्षी रूप से संशोधन किया जा रहा है।

टिप्पण–मूल अधिसूचना भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), तारीख 16.06.2018 में प्रकाशित हुई थी।

New Delhi, the 4th September, 2024

S.O. 2073.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Personnel, Public Grievance and Pensions (Department of Personnel and Training) vide number S.O. 934, dated 7th June, 2018, published in the Gazette of India, Part-II, Section 3, Sub-section (ii), dated 16.06.2018, namely:-

2. In the said notification, -

(a) in serial number (2), for the letters and figures "RC 3 E 1998", the letters, figures and brackets "RC-2(E)/1998" shall be substituted and shall be deemed to have been substituted with effect from 7th June, 2018;

(b) for serial number (6) and the entries relating thereto, the following serial number and entries shall be substituted and shall be deemed to have been substituted with effect from 7th June, 2018, namely: -

"(6) RC-6(E)/2006-EOW-II, M/s Durga Overseas Pvt. Ltd. CBI Vs. Praveen Chugh".

[F. No. 225/14/2017-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

Explanatory Memorandum.—In the Notification S.O. 934, dated 7th June, 2018, certain typographical errors have been occurred at serial numbers (2) and (6). In order to rectify the same, the said notification is being amended with retrospective effect from 7th June, 2018.

Note.- Principal notification was published in the Gazette of India, Part II, Section 3, Sub-section (ii) dated 16th June, 2018 vide S.O. 934 dated 7th June, 2018

नई दिल्ली, 6 सितम्बर, 2024

का.आ. 2074.—केन्द्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री सुनील डोमिनिक गोंजाल्वेज, अधिवक्ता को माननीय विशेष न्यायाधीश, न्यायालय कक्ष संख्या 50, सिटी सिविल और सत्र न्यायालय, मुम्बई में दिल्ली विशेष पुलिस स्थापना (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थापित केन्द्रीय अन्वेषण ब्यूरो मामला आरसी-बीएस12009एस0004-सीबीआई/एससीबी/मुम्बई (घाटकोपर अभिरक्षा में मृत्यु संबंधी मामला) के अभियोजन का संचालन करने और विधि द्वारा स्थापित किसी अपीलीय या पुनरीक्षण न्यायालय में उक्त मामले से उद्भूत अपील, पुनरीक्षण और अन्य मामलों का संचालन करने के लिए, नियुक्ति की तारीख से तीन वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा. सं. 225/18/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 6th September, 2024

S.O. 2074.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Sunil Domnic Gonsalves, Advocate, as Special Public Prosecutor for conducting the prosecution of Central Bureau of Investigation case RC-BS12009S0004-CBI/SCB/Mumbai (Ghatkopar Custodial Death Case) instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) in the Special Judge, Court Room No. 50, City Civil and Sessions Court, Mumbai and appeal, revision and other matters arising out of the said case in any Appellate or Revisional Court established by law, for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/18/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 9 सितम्बर, 2024

का.आ. 2075.—केंद्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री सचिन एस. पनले, अधिवक्ता को बंबई उच्च न्यायालय की औरंगाबाद न्यायपीठ में दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा अन्वेषण किए गए मामलों से उद्भूत अभियोजन, अपील, पुनरीक्षण या अन्य मामलों का संचालन करने हेतु नियुक्ति की तारीख से तीन वर्ष की अवधि के लिए या अगले आदेश तक, इनमें से जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/27/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 9th September, 2024

S.O. 2075.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Sachin S. Panale, Advocate as Special Public Prosecutor for conducting the prosecution, appeals, revisions and other matters arising out of the cases investigated by the Delhi Special Police Establishment (Central Bureau of Investigation), in the High Court of Bombay at Aurangabad Bench, for a period of three years from the date of appointment or until further orders, whichever is earlier.

[F. No. 225/27/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 12 सितम्बर, 2024

का.आ. 2076.—केन्द्रीय सरकार भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री पीयूष गर्ग, अधिवक्ता को उत्तराखंड उच्च न्यायालय, नैनीताल में दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित किए गए मामलों से उद्भूत अभियोजन, अपील, पुनरीक्षण या अन्य मामलों का संचालन करने हेतु कार्यभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए या अगले आदेश तक, इनमें से जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है ।

[फा. सं. 225/23/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 12th September, 2024

S.O. 2076.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Piyush Garg, Advocate as Special Public Prosecutor for conducting the prosecution, appeals, revisions and other matters arising out of the cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation), before the High Court of Uttarakhand at Nainital, for a period of three years from the date of assumption of charge or until further orders, whichever is earlier.

[F. No. 225/23/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 12 सितम्बर, 2024

का.आ. 2077.—केन्द्रीय सरकार, भारतीय नागरिक संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री पी. एस. पी. सुरेश कुमार और श्री मानव सरवन कुमार, अधिवक्ताओं को, आन्ध्र प्रदेश उच्च न्यायालय, अमरावती के समक्ष दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित मामलों में अभियोजन का संचालन, अपील, पुनरीक्षण और उनसे उद्भूत अन्य विषयों का संचालन करने के लिए उनकी नियुक्ति की तारीख से तीन वर्षों की अवधि के लिए या अगला आदेश होने तक, जो भी पूर्वतर हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा .सं .225/25/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 12th September, 2024

S.O. 2077.—In exercise of the powers conferred by sub-section (8) of Section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri P. S. P. Suresh Kumar and Shri Mannava Sravan Kumar, Advocates as Special Public Prosecutors for conducting the prosecution, appeals, revisions and other matters arising out of the cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) before the High Court of Andhra Pradesh at Amaravati, for a period of three years from the date of their assumption of charge or until further orders, whichever is earlier.

[F. No. 225/25/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 18 सितम्बर, 2024

का.आ. 2078.—केन्द्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मध्य प्रदेश उच्च न्यायालय, इंदौर न्यायपीठ के समक्ष दिल्ली विशेष पुलिस स्थापन (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थापित मामलों का अभियोजन, अपील, पुनरीक्षण और उद्भूत

अन्य मामलों का संचालन करने के लिए, श्री मनोज सोनी और श्री मनोज द्विवेदी, अधिवक्ताओं को, उनके पदग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[फा .सं .225/37/2021-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 18th September, 2024

S.O. 2078.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Manoj Soni and Shri Manoj Dwivedi, Advocates as Special Public Prosecutors for conducting the prosecution, appeals, revisions and other matters arising out of the cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation), before the High Court of Madhya Pradesh, Indore Bench, for a period of three years from the date of assumption of charge or until further orders, whichever is earlier.

[F. No. 225/37/2021-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 23 सितम्बर, 2024

का.आ. 2079.—केंद्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उपधारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए अधिवक्तागण श्री काश्मीर सिंह ठाकुर और श्री जनेश महाजन को हिमाचल प्रदेश उच्च न्यायालय, शिमला में दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा अन्वेषित किए जा रहे मामलों का अभियोजन, अपील, पुनरीक्षण और इन मामलों से उत्पन्न अन्य मामलों का संचालन करने के लिए, उनकी नियुक्ति की तारीख से तीन वर्षों की अवधि के लिए अथवा अगले आदेशों तक, इनमें से जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/22/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 23rd September, 2024

S.O. 2079.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Kashmir Singh Thakur and Shri Janesh Mahajan, Advocates as Special Public Prosecutors for conducting the prosecution, appeals, revisions and other matters arising out of the cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation), before the High Court of Himachal Pradesh at Shimla, for a period of three years from the date of assumption of charge or until further orders, whichever is earlier.

[F. No. 225/22/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 26 सितम्बर, 2024

का.आ. 2080.—केंद्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उप-धारा (8) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए निम्नलिखित अधिवक्ताओं को, जो नीचे दी गई सारणी में प्रत्येक के सामने उल्लिखित हैं, दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित मामलों के अभियोजन और विधि द्वारा स्थापित किसी अपीली या पुनरीक्षण न्यायालय में अपील, पुनरीक्षण और इन मामलों से उत्पन्न होने वाले अन्य मामलों को संचालित करने के लिए मामले का निपटारा होने तक, विशेष लोक अभियोजक के रूप में नियुक्त करती है:

सारणी

क्र. सं.	अधिवक्ता का नाम (श्री/श्रीमती)	आरसी सं.	विशेष मामला सं./ न्यायालय मामला सं.	न्यायालय का नाम
1	श्री सुनील डोमनिक गोंजाल्वेज	आरसी 4/ई/2002-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 83/2003	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 3/ई/2006-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 48/2007 और विशेष मामला सं. 22/2014	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 4/ई/2006-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 47/2007 और विशेष मामला सं. 74/2014	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 1/ई/2014-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 62/2016 और विशेष मामला सं. 64/2017	विशेष न्यायाधीश, न्यायालय सं. 52, मुंबई
		आरसी 5/ई/2014-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 34/2017 और विशेष मामला सं. 62/2017	विशेष न्यायाधीश, न्यायालय सं. 52, मुंबई
2	श्री जयसिंग विष्णु देसाई	आरसी 5/ई/2004-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 27/2007	विशेष न्यायाधीश, न्यायालय सं. 52, मुंबई
		आरसी 2/ई/2014-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 42/2014, विशेष मामला सं. 10/2015 और विशेष मामला सं. 32/2016	विशेष न्यायाधीश, न्यायालय सं. 52, मुंबई
		आरसी 26/ई/2016-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 10/2018	विशेष न्यायाधीश, न्यायालय सं. 52, मुंबई
3	श्री अरविंद अंकुश आघव	आरसी 8/ई/2011-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 48/2012 और विशेष मामला सं. 79/2012	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 4/ई/2011-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 68/2012	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 4/ई/2012-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 11/2013	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 6/ई/2012-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 53/2013 और विशेष मामला सं. 65/2013	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 3/ई/2012-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 72/2013	विशेष न्यायाधीश, न्यायालय सं. 51, मुंबई
		आरसी 5/ई/2012-सीबीआई/बीएसएफबी/मुंबई	विशेष मामला सं. 85/2013	विशेष न्यायाधीश, न्यायालय सं. 52, मुंबई
4	श्री रमाकांत आर. यादव	आरसी 11/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 541/पीडब्ल्यू/2023	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई
		आरसी 12/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 633/पीडब्ल्यू/2021	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई

		आरसी 13/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 648/पीडब्ल्यू/2019	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई
		आरसी 17/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 877/पीडब्ल्यू/2019	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई
		आरसी 19/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 240/पीडब्ल्यू/2022	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई
		आरसी 20/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 49/पीडब्ल्यू/2021	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई
		आरसी 21/ई/2016-सीबीआई/बीएसएफबी/मुंबई	न्यायालय मामला सं. 542/पीडब्ल्यू/2023	अपर मुख्य महानगर मजिस्ट्रेट सं. 3, एसप्लेनेड, मुंबई

[फा. सं. 225/05/2024-एवीडी- II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 26th September, 2024

S.O. 2080.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints the following advocates as Special Public Prosecutors for conducting prosecution of cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) as mentioned against each in the Table below and appeal, revision and other matter arising out of these cases in any appellate or revisional Court established by law, till disposal of the cases or until further orders whichever is earlier:

TABLE

Sl. No.	**Name of the Advocate (S/Shri/Smt.**	**RC Nos.**	**SPL. Case No. /Court Case No**	**Name of Court**
1	Shri Sunil Domnic Gonsalves	RC 4/E/2002-CBI/BSFB/Mumbai	SPL. Case No. 83/2003	Special Judge, Court No. 51, Mumbai
		RC 3/E/2006-CBI/BSFB/Mumbai	SPL. Case No. 48/2007 and SPL. Case No. 22/2014	Special Judge, Court No. 51, Mumbai
		RC 4/E/2006-CBI/BSFB/Mumbai	SPL. Case No. 47/2007 and SPL. Case No. 74/2014	Special Judge, Court No. 51, Mumbai
		RC 1/E/2014-CBI/BSFB/Mumbai	SPL. Case No. 62/2016 and SPL. Case No. 64/2017	Special Judge, Court No. 52, Mumbai
		RC 5/E/2014-CBI/BSFB/Mumbai	SPL. Case No. 34/2017 and SPL. Case No. 62/2017	Special Judge, Court No. 52, Mumbai
2	Shri Jaysing Vishnu Desai	RC 5/E/2004-CBI/BSFB/Mumbai	SPL. Case No. 27/2007	Special Judge, Court No. 52, Mumbai
		RC 2/E/2014-CBI/BSFB/Mumbai	SPL. Case No. 42/2014, SPL. Case No. 10/2015 and SPL. Case No. 32/2016	Special Judge, Court No. 52, Mumbai
		RC 26/E/2016-CBI/BSFB/Mumbai	SPL. Case No. 10/2018	Special Judge, Court No. 52, Mumbai
3	Shri Arvind Ankush Aghav	RC 8/E/2011-CBI/BSFB/Mumbai	SPL. Case No. 48/2012 and SPL. Case No. 79/2012	Special Judge, Court No. 51, Mumbai

		RC 4/E/2011-CBI/BSFB/Mumbai	SPL. Case No. 68/2012	Special Judge, Court No. 51, Mumbai
		RC 4/E/2012-CBI/BSFB/Mumbai	SPL. Case No. 11/2013	Special Judge, Court No. 51, Mumbai
		RC 6/E/2012-CBI/BSFB/Mumbai	SPL. Case No. 53/2013 and SPL. Case No. 65/2013	Special Judge, Court No. 51, Mumbai
		RC 3/E/2012-CBI/BSFB/Mumbai	SPL. Case No. 72/2013	Special Judge, Court No. 51, Mumbai
		RC 5/E/2012-CBI/BSFB/Mumbai	SPL. Case No. 85/2013	Special Judge, Court No. 52, Mumbai
4	Shri Ramakant R. Yadav	RC 11/E/2016-CBI/BSFB/Mumbai	Court Case No. 541/PW/2023	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai
		RC 12/E/2016-CBI/BSFB/Mumbai	Court Case No. 633/PW/2021	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai
		RC 13/E/2016-CBI/BSFB/Mumbai	Court Case No. 648/PW/2019	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai
		RC 17/E/2016-CBI/BSFB/Mumbai	Court Case No. 877/PW/2019	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai
		RC 19/E/2016-CBI/BSFB/Mumbai	Court Case No. 240/PW/2022	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai
		RC 20/E/2016-CBI/BSFB/Mumbai	Court Case No. 49/PW/2021	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai
		RC 21/E/2016-CBI/BSFB/Mumbai	Court Case No. 542/PW/2023	Additional Chief Metropolitan Magistrate No.3, Esplanade Mumbai

[F. No. 225/05/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 15 अक्तूबर, 2024

का.आ. 2081.—केन्द्र सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, श्री अखिलेश, अधिवक्ता को, नीचे सारणी के स्तंभ (2) और स्तंभ (3) में उल्लिखित दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित तथा उक्त सारणी के स्तंभ (4) में उल्लिखित न्यायालय में मामलों के अभियोजन हेतु तथा उक्त मामलों से उद्भूत अपील, पुनरीक्षण या अन्य मामलों का निपटारा होने तक या अगले आदेश तक, इनमें से जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

सारणी

क्र. सं.	आरसी सं.	सीसी सं.	न्यायालयों का नाम
(1)	(2)	(3)	(4)
1.	आरसी 219 2017 ई 0017 - सीबीआई बनाम कुमार अभिषेक एवं अन्य	37/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
2.	आरसी 219 2017 ई 0017 - सीबीआई बनाम मेसर्स श्री	38/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई,

	बालाजी हाई-टेक कंस्ट्रक्शन प्राइवेट लिमिटेड (फ्लैट नंबर ए-402) और अन्य		गाज़ियाबाद
3.	आरसी 219 2017 ई 0017 - सीबीआई बनाम सागर कुमार सैनी एवं अन्य	39/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
4	आरसी 219 2017 ई 0017 - सीबीआई बनाम पुष्पलता डुडेजा एवं अन्य	40/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
5	आरसी 219 2017 ई 0017 - सीबीआई बनाम मेसर्स श्री बालाजी हाई-टेक कंस्ट्रक्शन प्राइवेट लिमिटेड (फ्लैट नंबर ए-801) और अन्य	41/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
6	आरसी 219 2017 ई 0017 - सीबीआई बनाम मेसर्स श्री बालाजी हाई-टेक कंस्ट्रक्शन प्राइवेट लिमिटेड (फ्लैट नंबर बी-206) और अन्य	42/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
7	आरसी 219 2017 ई 0017 - सीबीआई बनाम अनिल कुमार शर्मा एवं अन्य	43/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
8	आरसी 219 2017 ई 0017 - सीबीआई बनाम महेंद्र सिंह एवं अन्य	44/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
9	आरसी 219 2017 ई 0017 - सीबीआई बनाम अभिषेक गोविल एवं अन्य	45/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
10	आरसी 219 2017 ई 0017 - सीबीआई बनाम देवेंद्र कुमार एवं अन्य	46/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
11	आरसी 219 2017 ई 0017 - सीबीआई बनाम राधा रानी एवं अन्य	47/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
12	आरसी 219 2017 ई 0017 - सीबीआई बनाम नवीन कुमार एवं अन्य	48/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
13	आरसी 219 2017 ई 0017 - सीबीआई बनाम मेसर्स श्री बालाजी हाई-टेक कंस्ट्रक्शन प्राइवेट लिमिटेड (फ्लैट नंबर ए-902) और अन्य	49/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
14	आरसी 219 2017 ई 0017 - सीबीआई बनाम अनुपम सरीन एवं अन्य	50/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
15	आरसी 219 2017 ई 0017 - सीबीआई बनाम अजय कुमार एवं अन्य	51/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
16	आरसी 219 2017 ई 0017 - सीबीआई बनाम मेसर्स श्री बालाजी हाई-टेक कंस्ट्रक्शन प्राइवेट लिमिटेड (फ्लैट नंबर बी-1306) और अन्य	52/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
17	आरसी 219 2017 ई 0017 - सीबीआई बनाम अभिषेक सिंह एवं अन्य	53/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
18	आरसी 219 2017 ई 0017 - सीबीआई बनाम सुरेश रावत एवं अन्य	54/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
19	आरसी 219 2017 ई 0017 - सीबीआई बनाम जितेंद्र कुमार एवं अन्य	55/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
20	आरसी 219 2017 ई 0017 - सीबीआई बनाम राज कुमार एवं अन्य	56/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद

21	आरसी 219 2017 ई 0017 - सीबीआई बनाम प्रकाश एवं अन्य	57/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
22	आरसी 219 2017 ई 0017 - सीबीआई बनाम सतीश कुमार एवं अन्य	58/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
23	आरसी 219 2017 ई 0017 - सीबीआई बनाम अमित सक्सेना एवं अन्य	59/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद
24	आरसी 219 2017 ई 0017 - सीबीआई बनाम इंद्रेश कुमार शर्मा और अन्य	71/2024	विशेष न्यायिक मजिस्ट्रेट, सीबीआई, गाज़ियाबाद

[फा .सं 225/30/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 15th October, 2024

S.O. 2081.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Akhilesh, Advocate as Special Public Prosecutor for conducting prosecution of cases instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) mentioned in column (2) and (3) of the Table below and in the Court mentioned in column (4) of the said Table and any appeal, revision or other matter arising out of said cases in any appellate or revisional Court established by law, till disposal of the cases or until further order, whichever is earlier.

TABLE

S. No.	RC Nos.	CC Nos.	Name of the Courts
(1)	(2)	(3)	(4)
1	RC 219 2017 E0017 - CBI V/s Kumar Abhishek & Ors.	37/2024	Special Judicial Magistrate, CBI, Ghaziabad
2	RC 219 2017 E0017 - CBI V/s M/s Shree Balaji Hi-Tech Construction Pvt. Ltd. (Flat No. A-402) & Ors.	38/2024	Special Judicial Magistrate, CBI, Ghaziabad
3	RC 219 2017 E0017 - CBI V/s Sagar Kumar Saini & Ors.	39/2024	Special Judicial Magistrate, CBI, Ghaziabad
4	RC 219 2017 E0017 - CBI V/s Pushplata Dudeja & Ors.	40/2024	Special Judicial Magistrate, CBI, Ghaziabad
5	RC 219 2017 E0017 - CBI V/s M/s Shree Balaji Hi-Tech Construction Pvt. Ltd. (Flat No. A-801) & Ors.	41/2024	Special Judicial Magistrate, CBI, Ghaziabad
6	RC 219 2017 E0017 - CBI V/s M/s Shree Balaji Hi- Tech Construction Pvt. Ltd. (Flat No. B-206) & Ors.	42/2024	Special Judicial Magistrate, CBI, Ghaziabad
7	RC 219 2017 E0017 - CBI V/s Anil Kumar Sharma & Ors.	43/2024	Special Judicial Magistrate, CBI, Ghaziabad
8	RC 219 2017 E0017 - CBI V/s Mahendra Singh & Ors.	44/2024	Special Judicial Magistrate, CBI, Ghaziabad
9	RC 219 2017 E0017 - CBI V/s Abhishek Govil & Ors.	45/2024	Special Judicial Magistrate, CBI, Ghaziabad
10	RC 219 2017 E0017 - CBI V/s Devender Kumar & Ors.	46/2024	Special Judicial Magistrate, CBI, Ghaziabad
11	RC 219 2017 E0017 - CBI V/s Radha Rani & Ors.	47/2024	Special Judicial Magistrate, CBI, Ghaziabad

12	RC 219 2017 E0017 - CBI V/s Naveen Kumar & Ors.	48/2024	Special Judicial Magistrate, CBI, Ghaziabad
13	RC 219 2017 E0017 - CBI V/s M/s Shree Balaji Hi-Tech Construction Pvt. Ltd. (Flat No. A-902) & Ors.	49/2024	Special Judicial Magistrate, CBI, Ghaziabad
14	RC 219 2017 E0017 - CBI V/s Anupam Sareen & Ors.	50/2024	Special Judicial Magistrate, CBI, Ghaziabad
15	RC 219 2017 E0017 - CBI V/s Ajay Kumar & Ors.	51/2024	Special Judicial Magistrate, CBI, Ghaziabad
16	RC 219 2017 E0017 - CBI V/s M/s Shree Balaji Hi- Tech Construction Pvt. Ltd. (Flat No. B-1306) & Ors.	52/2024	Special Judicial Magistrate, CBI, Ghaziabad
17	RC 219 2017 E0017 - CBI V/s Abhishek Singh & Ors.	53/2024	Special Judicial Magistrate, CBI, Ghaziabad
18	RC 219 2017 E0017 - CBI V/s Suresh Rawat & Ors.	54/2024	Special Judicial Magistrate, CBI, Ghaziabad
19	RC 219 2017 E0017 - CBI V/s Jitender Kumar & Ors.	55/2024	Special Judicial Magistrate, CBI, Ghaziabad
20	RC 219 2017 E0017 - CBI V/s Raj Kumar & Ors.	56/2024	Special Judicial Magistrate, CBI, Ghaziabad
21	RC 219 2017 E0017 - CBI V/s Prakash & Ors.	57/2024	Special Judicial Magistrate, CBI, Ghaziabad
22	RC 219 2017 E0017 - CBI V/s Satish Kumar & Ors.	58/2024	Special Judicial Magistrate, CBI, Ghaziabad
23	RC 219 2017 E0017 - CBI V/s Amit Saxena & Ors.	59/2024	Special Judicial Magistrate, CBI, Ghaziabad
24	RC 219 2017 E0017 - CBI V/s Indresh Kumar Sharma & Ors.	71/2024	Special Judicial Magistrate, CBI, Ghaziabad

[F. No. 225/30/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 16 अक्तूबर, 2024

का.आ. 2082.—केन्द्रीय सरकार, भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री पी. प्रसन्ना कुमार, अधिवक्ता को दिल्ली विशेष पुलिस स्थापन (केंद्रीय अन्वेषण ब्यूरो) द्वारा संस्थित एवं 81वां अपर नगर सिविल एवं सत्र न्यायालय, बंगलोर में लंबित केंद्रीय अन्वेषण ब्यूरो मामला सं. आरसी-17(एस)/2019-सीबीआई/एसीबी/बीएलआर (योगेश गौड़ा हत्या मामला) (न्यायालय मामला सं. 565/2021 और न्यायालय मामला सं. 1856/2021) के अभियोजन का संचालन करने के लिए इन मामलों के निपटान होने तक अथवा अगले आदेश तक, इनमे से जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा .सं .225/29/2024-एवीडी-II]

सत्यम श्रीवास्तव, अवर सचिव

New Delhi, the 16th October, 2024

S.O. 2082.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri P. Prasanna Kumar, Advocate as Special Public Prosecutor for conducting prosecution of Central Bureau of Investigation Case RC-17(S)/2019-CBI/ACB/BLR (Yogesh Gowda Murder Case) (CC No. 565/2021 and CC No. 1856/2021) instituted by Delhi Special

Police Establishment (Central Bureau of Investigation), pending before the 81st Additional City Civil and Sessions Court, Bangalore, till disposal of the case or until further order, whichever is earlier.

[F. No. 225/29/2024-AVD-II]

SATYAM SRIVASTAVA, Under Secy.

नई दिल्ली, 11 नवम्बर, 2024

का.आ. 2083.—केंद्रीय सरकार भारतीय नागरिक सुरक्षा संहिता, 2023 (2023 का 46) की धारा 18 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री पार्थ सारथी दत्ता, अधिवक्ता को अपर मुख्य न्यायिक दण्डाधिकारी, सियालदह 24 परगना (दक्षिण), कोलकाता के न्यायालय में दिल्ली विशेष पुलिस स्थापन (केन्द्रीय अन्वेषण ब्यूरो) द्वारा संस्थित मामला सं. आरसी-10(एस)/2024/सीबीआई/एससी-I/नई दिल्ली एवं विधि द्वारा स्थापित किसी अपीलीय अथवा पुनरीक्षण न्यायालय में उक्त मामलों से उत्पन्न अपील, पुनरीक्षण अथवा अन्य मामलों के अभियोजन का संचालन करने के लिए उनके प्रभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा मामले के निपटान होने तक, इनमें से जो भी पहले हो, विशेष लोक अभियोजक नियुक्त करती है।

[फा. सं. 225/33/2024-एवीडी-II]

राजीव कुमार खरे, अवर सचिव

New Delhi, the 11th November, 2024

S.O. 2083.—In exercise of the powers conferred by sub-section (8) of section 18 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023), the Central Government hereby appoints Shri Partha Sarathi Dutta, Advocate as Special Public Prosecutor for conducting the prosecution of case RC-10(S)/2024/CBI/SC-I/New Delhi instituted by the Delhi Special Police Establishment (Central Bureau of Investigation) in the Court of Additional Chief Judicial Magistrate, Sealdah, 24 Parganas (South), Kolkata and any appeal, revision or other matter arising out of the said case in any appellate or revisional Court established by law, for a period of three years or till the disposal of the case, whichever is earlier.

[F. No. 225/33/2024-AVD-II]

RAJEEV KUMAR KHARE, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 4 नवम्बर, 2024

का.आ. 2084.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में पेट्रोलियम और प्राकृतिक गैस मंत्रालय के प्रशासनिक नियंत्रणाधीन सार्वजनिक क्षेत्र के उपक्रम के निम्नलिखित कार्यालय को, जिसके 80 या अधिक प्रतिशत कर्मचारी वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है:-

मेहसाना परिसम्पत्ति,
(ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड),
केडीएम भवन, पालावासना,
मेहसाना - 380003

[फा .सं .11012/3/2021-रा.भा.(2024)]

डॉ. ज्योति मिश्रा, उप निदेशक (राजभाषा)

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 4th November, 2024

S.O. 2084.—In pursuance of Sub Rule (4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976, the central Government hereby notifies the following office of the Public Sector undertaking

under the administrative control of the Ministry of Petroleum & Natural Gas, in which 80 or more percent of the staff have acquired working Knowledge of Hindi:-

Mehsana Asset,
(Oil and Natural Gas Corporation Limited),
KDM Bhawan, Palawasna,
Mehsana – 380003

[F. No. 11012/3/2021-OL(2024)]
Dr. JYOTI MISHRA, Dy. Director (OL)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 19 सितम्बर, 2024

का.आ. 2085.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार बी बी. एम. बी. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण– सह – श्रम न्यायालय नंबर II, चंडीगढ़** के पंचाट **(संदर्भ संख्या 242/2005)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **29/08/2024** को प्राप्त हुआ था।

[सं. एल–23012/12/2004-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 19th September, 2024

S.O. 2085.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No.242/2005*)* of t*he* Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on ***29/08/2024.***

[No. L-23012/12/2004 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

In the Central Government Industrial Tribunal-cum-Labour Court-II, Chandigarh.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 242 /2005

Registered on:- 05.08.2005

Tara Chand S/o Sh. Chet Ram, C/o Shri Hem Prabh S/o Sh. Bali Ram, R/o Village Bhayarta, P.O. Chanahan, Teh. & Distt. Mandi (HP).

…….....Workman

Versus

1. Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh through its Chairman.
2. The Chief Engineer, BSL Project Sundernagar Township, Distt. Mandi, (HP).

…..Respondents/Managements

AWARD

Passed on :-18.07.2024

Central Government vide Notification No.L-23012/12/2004-IR(CM-II), dated 07.07.2005, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

""Whether the demand of Shri Tara Chand for reinstatement in the services of BBMB, Sunder Nagar is legal and justified? If so, to what relief the concerned workman is entitled and from which date?

1. The brief facts, related to the case are that the construction of Beas Sutluj Link Project{hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its headquarter at Sundernagar and this project was under the control of Centre Government, who had been constructing, maintaining, operating and administrating it through various Boards in different phases. After passing of Pb. Re-Organisation Act, 1966(hereinafter called "Re-Organisation Act") Beas Control Board was replaced by Beas Construction Board(hereinafter called as BCB). The workman was employed by BCB on 03.03.1964. The workman who was employed in Beas Project(Unit-1) become the employee of Bhakra Beas Management Board(hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organisation Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 30.03.1984 on account of reduction in strength due to part completion of the BSL(P) and re-employment certificate was issued by the office of re-settlement B.S.L/B.B.M.B. Sundernagar for the re-employment of the retrenched workmen of B.S.L.(P)(BBMB) in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G and Section 25-H of the I.D. Act, 1947. The employer is also doing unfair labour practices as defined in Section 2(R)A of the ID Act. Management has also violated the provisions of Rules 77 and 78 of Industrial Dispute(Central) Rule, 1957(hereinafter called "The Industrial Rules"). By filling vacant posts, the employer declared some posts as surplus and retrenched the employees working on those posts.

2. It is also maintained that the present workman and other workmen have filed a Civil Writ Petition No. 403/1996, titled as Sant Ram and 87 others Vs. BBMB in the Hon'ble High Court of Shimla for their re-employment and in the said writ petition management filed reply dated 16.04.1996 by way of affidavit and admitted that retrenched workmen are employee of BBMB. The workmen have then withdrew the writ petition and filed civil suits for declaring them as a retrenched workmen of BBMB before the Sub-Judge, 1st Class, Sunder Nagar, Distt. Mandi(HP), on 21.01.1997 and later on those suits were decided on 05.07.2002 and all plaints were returned to the workmen to be filed before the competent authority on the basis of which the present proceedings were initiated after referring of the dispute of workman from the Ministry of Labour on 07.07.2005. Thereafter, management filed writ petition before the Hon'ble Punjab & Haryana High Court against the order of Ministry on 07.07.2005 and the same was dismissed on 07.05.2007 and Special Leave Petition filed bearing nos.16939-17007 of 2007 in Hon'ble Supreme Court of India by the management was also dismissed on 08.07.2014. It is therefore, prayed that the claim petition of the workman may kindly be allowed and workman be continued in the service of the management and be regularized and further be given all the consequential benefits.

3. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organisation Act. The workman was retrenched after completion of the work of BCB in the year 1984. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of ID Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organisation of the erstwhile State of Punjab on 01.01.1966. After re-organisation the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organisation Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board(hereinafter called as BMB) constituted under Section 79(1) of the Re-organisation Act. It is further stated under Section 80(5) of the Re-organisation Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organisation Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. However, it is stated that 1093 work-charged and 12 contingent paid employees of Beas Project were sent on job order basis to Ranjit Sagar Dam, Punjab. They were taken over by the management under the benevolent policy of the Central Govt. as Central Govt. had given directions to BBMB to absorb these employees. The remaining work-charged employees were not entitled for the said benefit. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

4. A replication was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

5. Parties were given opportunity to lead evidence.

6. The workman has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A and has been cross-examined by the learned law officer of management. He also tendered document Ex. W-2 Discharge Certificate.

7. The management has filed affidavit of N.M. Jain, Sub-Divisional Officer, Sub- Division BBMB Sunder Nagar, who filed his affidavit in evidence as Ex.MW1/A and has been cross-examined by the learned counsel of workman.

8. While arguing the case, learned Law Officer for the management contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee 30.03.1964 and was retrenched on 30.03.1984. All similar work charged employees including the present workman was engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

9. So far as the claim of the workman regarding re-employment after retrenchment on 30.03.1984 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial peace and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

> ***"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."***

10. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 30.03.1984 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and has claim is hopelessly time barred as he has filed the present claim petition on 20.07.2005. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 27 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018***(Annexure R-4) where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the ID Act does not prescribed time limit for referring such dispute. In the present case workman was engaged as Masson in the year 1964 and was discharged on 30.03.1984 and he has sought re-employment after 41 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 30.03.1984 and thereafter he filed present claim before the Labour Conciliation Officer on 08.09.2005.

11. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 30.03.1984 due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the ID Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of under Section 25-G of the Act by the management Discharge Certificate was issued by the Management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957(hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the

Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the ID Act. Learned AR for the workman further contended that even reference made by the Government dated 07.07.2005 was challenged by the management in the Hon'ble Punjab & Haryana High Court vide Writ Petition No.3100 of 2006 and their writ petition was dismissed by the Hon'ble High Court on 07.05.2007. Even SLP filed against the order dated 07.05.2007 was upheld by the Hon'ble Supreme Court in SLP No.16979/2007 dated 08.07.2014.

12. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the management.

13. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another(supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners were employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the BhakraNangal Scheme.

14. In respect of these employees, it was held as follow:-

> ***"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."***

15. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

> ***"41. A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.***
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> ***42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.***
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> ***43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment9 and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.***
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> ***44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.***
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> ***45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section***

18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. JatinChakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

16. Thus, from the above observation of Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

17. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner(Central), New Delhi under Section 12 of the ID Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

18. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 01.05.2024 of this Tribunal. Respondent were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of ID Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. However, despite of availing 2-3 opportunities i.e. 20.05.2024, 20.06.2024 and 09.07.2024 the said policy was not produced and as such adverse inference can be drawn against the management in view of the above law.

19. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to

an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year, should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board hasby and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee.Even Himachal Pradesh Government generally followed the Punjab policy.The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government.The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect.Moreover financial implications and other complications are involved.

In such circumstances stated aboveI would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture.Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt,what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that

category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

20. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT that State Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

21. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen. *-The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

22. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employe them. However, certainly in respect of workcharged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of Jaswant Singh (Supra) to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

23. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

24. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in Jaswant Singh case(supra) in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

25. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2005 and thereafter, several rounds of litigations have taken place. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of Jaswant Singh case (Supra).

26. However, it is added that workman was allowed terminal benefits as admitted by him. Moreover, it is also not case of the petitioner that there is breach of Section 25 F of the Act.

27. Further, there was non-compliance of Jaswant Singh Case (Supra), Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employe the workman. The only remedy left is to compensate the workman in term of money.

28. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Work charged employee who has completed 5 years of service shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Work charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

The present work charged workman was employed on 03.03.1964 and was discharged on 30.03.1984 as per discharge certificate W2. He has worked about 20 years. Thus he is entitled of Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

29. The reference is answered accordingly and stands disposed off.

30. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 26 सितम्बर, 2024

का.आ. 2086.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी. बी. एम. बी. के प्रबंधतंत्र के संबद्ध नियोजको और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में **केन्द्रीय सरकार औद्योगिक अधिकरण- सह - श्रम न्यायालय नंबर II** चंडीगढ़ के पंचाट **(संदर्भ संख्या 254/2005)** को प्रकाशित करती है, जो केन्द्रीय सरकार को **29/08/2024** को प्राप्त हुआ था।

[सं. एल –23012/17/2004-आई.आर. (सी.एम-II)]

मणिकंदन.एन, उप निदेशक

New Delhi, the 26th September, 2024

S.O. 2086.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award **(Ref. No. 254/2005*)* of t*he* **Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh** as shown in the Annexure, in the industrial dispute between the Management of **BBMB** and their workmen, received by the Central Government on ***29/08/2024***.

[No. L-23012/17/2004 – IR (CM-II)]

MANIKANDAN. N, Dy. Director

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH.

Present: Mr. Kamal Kant, Presiding Officer.

ID No. 254 /2005

Registered on:- 10.08.2005

Chet Ram S/o Sh. Bhura Ram workmen represented through his legal heirs as under:

i. Krishna Devi W/o Late Sh. Chet Ram.

ii. Hukmi Devi D/o Late Sh. Chet Ram.

iii. Lajwanti D/o Late Sh. Chet Ram.

iv. Dhanwanti D/o Late Sh. Chet Ram.

v. Vishal Bharadwaj Grandson of Late Sh. Chet Ram.

All residents of Village Troh, Tehsil. Balh, District Mandi, (H.P.).

…….....Workman

Versus

1. Bhakra Beas management Board, Madhya Marg, Sector 19-B, Chandigarh through its Chairman.

2. The Chief Engineer, BSL Project Sundernagar Township, Distt. Mandi, (HP).

…..Respondents/Managements

AWARD

Passed on:19.07.2024

Central Government vide Notification No.L-23012/17/2004-IR(CM-II), dated 07.07.2005, under clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

"Whether the demand of Shri Chet Ram for reinstatement in the services of BBMB, Sunder Nagar is legal and justified? If so, to what relief the concerned workman is entitled and from which date?

1. At the very outset it is pertinent to mention here that Chet Ram expired on 12.08.2023, during the pendency of reference and his LRs were impleaded as party in his place.

2. The brief facts, related to the case are that the construction of Beas Sutluj Link Project{hereinafter called as BSL(P)} started in the year 1962 under Beas Control Board, which was constituted on 10.02.1961 with its

headquarter at Sundernagar and this project was under the control of Centre Government, who had been constructing, maintaining, operating and administrating it through various Boards in different phases. After passing of Pb. Re-Organisation Act, 1966(hereinafter called "Re-Organisation Act") Beas Control Board was replaced by Beas Construction Board(hereinafter called as BCB). The workman was employed by BCB on 26.11.1969. The workman who was employed in Beas Project(Unit-1) become the employee of Bhakra Beas Management Board(hereinafter called as BBMB) in pursuance of proviso (1) of Section 80(3) and Section 80(5) of Re-organisation Act and the workman become the employee of the Centre Government under the management of B.B.M.B. from 15.05.1976. The workman has completed 240 days in every calendar year and was not interrupted till his retrenchment. The employer made a bulk retrenchment of project employees in the year 1977 and 1978 and also in stages thereafter till 1984. The workman was also retrenched by the employer on 25.10.1975 on account of reduction in strength due to part completion of the BSL(P) and re-employment certificate was issued by the office of re-settlement B.S.L/B.B.M.B. Sundernagar for the re-employment of the retrenched workmen of B.S.L.(P)(BBMB) in accordance with provision of the Act. After the retrenchment of the workman, thousands of other persons were appointed secretly by employer, violating Section 25-G and Section 25-H of the I.D. Act, 1947. The employer is also doing unfair labour practices as defined in Section 2(R)A of the ID Act. Management has also violated the provisions of Rules 77 and 78 of Industrial Dispute(Central) Rule, 1957(hereinafter called "The Industrial Rules"). By filling vacant posts, the employer declared some posts as surplus and retrenched the employees working on those posts.

3. It is also maintained that the present workman and other workmen have filed a Civil Writ Petition No.403/1996, titled as Sant Ram and 87 others Vs. BBMB in the Hon'ble High Court of Shimla for their re-employment and in the said writ petition management filed reply dated 16.04.1996 by way of affidavit and admitted that retrenched workmen are employee of BBMB. The workmen have then withdrew the writ petition and filed civil suits for declaring them as a retrenched workmen of BBMB before the Sub-Judge, 1st Class, Sunder Nagar, Distt. Mandi(HP), on 21.01.1997 and later on those suits were decided on 05.07.2002 and all plaints were returned to the workmen to be filed before the competent authority on the basis of which the present proceedings were initiated after referring of the dispute of workman from the Ministry of Labour on 07.07.2005. Thereafter, management filed writ petition before the Hon'ble Punjab & Haryana High Court against the order of Ministry on 07.07.2005 and the same was dismissed on 07.05.2007 and Special Leave Petition filed bearing nos.16939-17007 of 2007 in Hon'ble Supreme Court of India by the management was also dismissed on 08.07.2014. It is therefore, prayed that the claim petition of the workman may kindly be allowed and workman be continued in the service of the management and be regularized and further be given all the consequential benefits.

4. Management filed written statement, alleging therein that workman is Ex-work charged employee of Beas Construction Board, which was constituted under Section 80(1) of the Re-organisation Act. The workman was retrenched after completion of the work of BCB in the year 1975. The workman was paid terminal benefits i.e. retrenchment compensation, gratuity, ex-gratia amount on account of his retrenchment from BCB as per provisions of ID Act. It is further maintained that BCB and present management are two distinct and separate entities. It is also maintained that construction of Beas Project was undertaken by the Punjab Govt. Irrigation Department prior to the re-organisation of the erstwhile State of Punjab on 01.01.1966. After re-organisation the work of BSL(P) was taken over by the Central Govt. on behalf of partner states of Punjab, Haryana and Rajasthan. The Central Govt. constituted BCB under Section 80(5) of the Re-organisation Act and further stipulated that any component of Beas Project in relation to which the construction has been completed be transferred by the Central Govt. to Bhakra Management Board(hereinafter called as BMB) constituted under Section 79(1) of the Re-organisation Act. It is further stated under Section 80(5) of the Re-organisation Act that BMB would be re-named as BBMB when any component of Beas Project was transferred under Section 80(6) of the Re-organisation Act. The workman was employed by the BCB. Thus, the workman never remained the employee of management. However, it is stated that 1093 work-charged and 12 contingent paid employees of Beas Project were sent on job order basis to Ranjit Sagar Dam, Punjab. They were taken over by the management under the benevolent policy of the Central Govt. as Central Govt. had given directions to BBMB to absorb these employees. The remaining work-charged employees were not entitled for the said benefit. Even work-charged employees of the BCB had filed a petition in the Hon'ble Supreme Court of India, titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440,*** in which their claim for absorbing them in BBMB is not granted instead their retrenchment from BCB was upheld. Remaining averments have been denied and it is stated that the claim of the workman is hopelessly time barred and the workman has no legal enforceable right to claim employment in BBMB. It is prayed that claim be dismiss.

5. A replication was also filed by workman contravening the facts taken in written statement as reiterating the facts as stated in claim petition.

6. Parties were given opportunity to lead evidence.

7. The workman Chet Ram has examined himself as WW1 and filed his affidavit in evidence as Ex.WW1/A.

8. Moreover, no evidence has been given by the management in this case. Vide order dated 03.03.2021 the then Presiding Officer, A.K. Singh fixed the case for filing written arguments and the case remained pending for arguments. Even no evidence has been led by the management in this case.

9. While arguing the case, learned Law Officer for the management contended that initially Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. Present workman was employed as work charged employee 26.11.1969 and was retrenched on 25.10.1975. All similar work charged employees including the present workman was engaged by the BCB which ceased to exist in the year 1984 therefore, the workmen cannot be termed as the employees of the BBMB because there does not exist BCB which was his parent department. Moreover, the Hon'ble Supreme Court in the case titled as ***Jaswant Singh and another Vs. Union of India & Anr., 1979 SCC 440*** has held that work charged employees were bound by the settlement dated June 28, 1977 effected by the management and also by the award 2-C of the year 1971 before Sh. H.R. Sodhi, Presiding Officer, CGIT-Chandigarh between workman and employees of the Beas Construction Board, Sunder Nagar and published in the gazette on 15.06.1974 of the Govt. of India.

10. So far as the claim of the workman regarding re-employment after retrenchment on 25.10.1975 is concerned, workman was not entitled for re-instatement as in a case under reference no.2-C of 1971 decided by Sh. H.R. Sodhi, the then Presiding Officer, CGIT-Chandigarh, it was held that management in order to establish an industrial pleas and to secure the work charge employees after completing the work can engage after completion of project at any time within 6 months for the maintenance of staff for project of any work if it is required to those work charged employees in order to seniority who have put 10 years of service. The relevant portion of para is reproduced as below:

"It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected."

11. Because the present workman had not completed 10 years of service so he is not entitled for re-employment. Learned representative for the management further contended that in this case workman was retrenched on 25.10.1975 after receiving due retrenchment compensation etc. and now he is claiming re-employment under Section 25-H of the Act and his claim is hopelessly time barred as he has filed the present claim petition on 20.07.2005. To support this view he has placed reliance in the case titled as ***Chief Engineer Ranjit Sagar Dam & Anr. Vs. Sham Lal, AIR 2006, Supreme Court 2682,*** wherein in identical matters Court has not entertained writ petition due to inordinate delay. In the present case there is a delay of about 27 years. He also relied upon the case titled as ***Ram Chand Vs. The BBMB and another, CWP no.2787 of 2018, decided on 03.12.2018***(Annexure R-4) where the Hon'ble Himachal Pradesh High Court has held that dispute if any ought to be raised within a reasonable period as the ID Act does not prescribed time limit for referring such dispute. In the present case workman was engaged as Beldar in the year 1969 and was discharged on 25.10.1975 and he has sought re-employment after 36 years which was held to be highly time barred. Thus, he contended that claim of workman is time barred. Workman was discharged on 25.10.1975 and thereafter he filed present claim before the Labour Conciliation Officer on 30.11.2005.

12. While arguing the case, learned AR for the workman contended that in this case workman was discharged on 25.10.1975 due to reduction in strength and he was issued discharge certificate by Sub Divisional Officer, BBMB Sundernagar. He referred to Section 25-H of the ID Act which provides re-employment of retrenched workman. He further has drawn the attention of the Court towards the statement of the workman. He was required to be adjust in view of under Section 25-G of the Act by the management Discharge Certificate was issued by the Management. He was not given any employment. While arguing further, learned AR for the workman referred to Rule 77 and 78 of the Industrial Dispute Central Rule 1957(hereinafter called Industrial Rule). Rule 77 provides maintenance of seniority list of workman and it states that before any worker is retrenched the appellant-establishment is required to place on the notice board the seniority list of all the workmen who were to be retrenched but nothing has been done in this regard before retrenchment of the present worker. She also referred to Rule 78 which provides that as and when any vacancy incurred then retrenched workmen were required to be given registered notice but nothing was done by the management. Moreover, question of limitation does not arise as no limitation period has been prescribed under the Act for seeking relief under Clause (d) of Sub-Section (1) of Section 10 of the ID Act. Learned AR for the workman further contended that even reference made by the Government dated 07.07.2005 was challenged by the management in the Hon'ble Punjab & Haryana High Court vide Writ Petition No.3100 of 2006 and their writ petition was dismissed by the Hon'ble High Court on 07.05.2007. Even SLP filed against the order dated 07.05.2007 was upheld

by the Hon'ble Supreme Court in SLP No.16979/2007 dated 08.07.2014.

13. I have given due consideration to the arguments advanced by the learned AR for the workman and also for the management.

14. The management relied upon mainly in this case on the case titled as ***Jaswant Singh and another(supra),*** which is very material for decision of this case. The said judgment deals with two types of petitioners. First type of petitioners were employed by the BCB on purely temporary basis and they had also given written undertaking confirming the term of their appointment. The BCB appointed the first type of petitioners on ad hoc basis with a clear understanding that they will have no right to be retained in service after the completion of the Beas Project. They are Engineers, Section Officer, Accounts Clerk, Teacher etc. and they have claimed their parity with other employees who belonged to the services of the Punjab, Haryana and Rajasthan Governments and who were serving on deputation in connection with the works of the BhakraNangal Scheme.

15. In respect of these employees, it was held as follow:-

"To sum up, we are of the opinion that the petitioners are employees of the Central Government. Their conditions of service will be primarily governed by the terms of their appointment but, if they are entitled to the benefit of any of the rules of the Central Civil Services (Temporary Service) Rules 1965, they may make representations in that behalf to the appropriate authorities. It is, however, not possible for this Court to grant to the petitioners any of the reliefs claimed by them as arising out of the provisions of the aforesaid rules, including the relief by way of a declaration that they shall be deemed to be in quasi- permanent service under rule 3. We are further of the opinion that the petitioners have no right to be transferred to the services of the Bhakra Management Board, now re-named as the Bhakra Beas Management Board. Lastly, the proposed retrenchment of the petitioners does not offend against the guarantee of equality contained in articles 14 and 16 of the Constitution, since the petitioners and the Deputationists belong to two different and distinct classes."

16. As regards, second type of employees i.e. work charged employees the judgment deals in Para 41, 42, 43, 44, 45, 46 and 47 which read as follow:-

"41. A work-charged establishment broadly means an establishment of which the expenses, including the wages and allowances of the staff, are chargeable to "works". The pay and allowances of employees who are borne on a work-charged establishment are generally shown as a separate sub-head of the estimated cost of the work.

42. The entire strength of labour employed for the purposes of the Beas Project was work-charged. The work-charged employees are engaged on a temporary basis and their appointments are made for the execution of a specified work. From the very nature of their employment, their services automatically come to an end on the completion of the works for the sole purpose of which they are employed. They do not get any relief under the Payment of Gratuity Act nor do they receive any retrenchment benefits or any benefits under the Employees State Insurance Schemes.

43. But though the work-charged employees are denied these benefits, they are industrial workers and are entitled to the benefits of the pro- visions contained in the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment9 and modification. The work-charged employees, therefore, are in a better position than temporary servant like the other petitioners who are liable to be thrown out of employment without any kind of compensatory benefits.

44. The record of Writ Petition No. 4505 of 1978 shows that offers of alternative employment were made to the work- charged employees and many of them have accepted those offers. The rule of 'last come, first go' has also been consistently adopted while retrenching the work-charged employees. In fact the work-charged employees possess a unique right as industrial employees since, by reason of section 25J(1) of the Industrial Disputes Act, the provisions of Chapter VA, "Lay-off and Retrenchment", have effect notwithstanding anything inconsistent therewith contained in any other law including standing orders made under the Industrial Employment (Standing orders) Act, 1946.

45. There were in all about 36000 work-charged employees working on the Beas Project. Out of them, about 26000 have already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner (Central), New Delhi, under section 12 of the Industrial Disputes Act, 1947. All the 12 unions of which the work-charged employees are members were parties to the said conciliation proceedings. By reason of section 18(3)(d) of the Industrial Disputes Act, a settlement arrived at in the course of a conciliation proceeding is binding on all persons who were employed in the establishment to which the dispute relates, whether they were employed on the date of the dispute or subsequently. In Ramnagar Cane and Sugar Co. Ltd. v. JatinChakravorty and ors., it was held by this Court that it is not even necessary, in order to bind the work men to the settlement arrived at before the conciliator, to show that they belonged to the union which took part in the conciliation proceedings, since the policy underlying section 18 of the Act is to give an extended operation to such settlements. In the instant case, all the 12 unions which

represented the workmen on the work-charged establishment were parties to the conciliation proceedings. The settlement will therefore bind all the work-charged employees.

46. Apart from the settlement in the conciliation proceedings, an award was made by the Industrial Tribunal, Central, Chandigarh, in Reference No. 2-C of 1971, in an industrial dispute between the work-charged employees of the Beas-Sutlej Link Project, Sundernagar, with which we are concerned, and the management. Under that award, as stated in the award itself, a consent formula was evolved to which the workmen "virtually agreed". The benefits which flow- to the work- charged employees under the aforesaid award dated May 15, 1974, have been accepted by almost all the work- charged employees, involving a burden of about Rs. 3 crores on the employers.

47. Since the work-charged employees are bound by the settlement dated June 28, 1977 effected between them and the management in the conciliation proceedings and since they are also bound by and have accepted benefits under the consent award dated May 15, 1974 they are not entitled to any rights apart from those flowing from the aforesaid settlement and the Award. SLP No.1246 of 1979 which is filed to challenge the Award and C.M.P. No.2077 of 1979 which is filed for condonation of the delay of over four and half years caused in filing the SLP shall have to be dismissed."

17. Thus, from the above observation of Supreme Court it is clear that work charged employees are engaged on a temporary basis and their appointments are made for the specified work and their service comes to an end on the completion of work for the sole purpose of which they are employed.

18. Para 43 provides that work charged employees are industrial worker and entitled to the benefit of the provisions contained under the Industrial Disputes Act. Their rights flow from that special enactment under which even contracts of employment are open to adjustment and modification. Para 45 as reproduced above further provides that in the conciliation proceeding it has been held that there were about 36000 work charged employees working on Beas Project out of them 26000 has already accepted retrenchment compensation under the settlement arrived between the workmen and the management in the conciliation proceedings held by the Regional Labour Commissioner(Central), New Delhi under Section 12 of the ID Act. The said settlement is binding on all the work charge employees who are working in the establishment to which the dispute relates. In para 46 it is further stated that apart from the settlement in the conciliation proceeding an award was made by the CGIT Chandigarh in reference no.2-C in an industrial dispute between the work charged employee of the Beas Sutlej Project, Sundernagar with which we are concerned and the management. A consent formula was evolved to which the workmen virtually agreed. In the last para 47 itself specifically stated that work charged employees are bound by the settlement and award May 15, 1974 and they were entitled to rights those flowing from the settlement and award.

19. So far as the settlement executed between the work charged employees and management through unions, the same has not been produced by the management despite opportunity was given to file the same. Thus, adverse interference can be drawn against them. To support this view, reliance can be placed to the judgment of Hon'ble Punjab & Haryana High Court in case held as***2001(3) RSJ 382 Ambika Parashad Versus Punjab Urban Planning and Development Authority Chandigarh and Another*** **wherein it has been** held **"that respondent has not produced record in the Labour Court to prove that Workman has not completed 240 days of service though application was submitted by the Workman for production of record held that a person in possession of the best evidence has to produce the same, otherwise adverse inference can be drawn against the said party".** In this case also as per order dated 01.05.2024 of this Tribunal. Respondent were asked to produce the settlement arrived between the 12 union of the work charged employee and management under Section 12 of ID Act before the Regional Labour Commissioner, New Delhi and all the work charged employee were bound by the said settlement. However, despite of availing 2-3 opportunities i.e. 20.05.2024, 20.06.2024 and 09.07.2024 the said policy was not produced and as such adverse inference can be drawn against the management in view of the above law.

20. As regards award passed by Central Govt. Industrial Tribunal, Chandigarh, the relevant claim of the work charged employees was regarding their regularization services and the finding given by the Tribunal is as follow:-

"Regulation of Services of the workcharged employees.

It is an un-disputed fact that the entire strength of labour as employed in the Project is workcharged. The institution of workcharged establishment is not only necessary but sometime unavoidable. These workmen are engaged on temporary basis and their services are utilized for the execution of a specified work for which they may be suited. From the very nature of employment the services of such workman automatically come to an end on the completion of the work. A workcharged employee does not get any relief under the Payment of Gratuity Act nor is he benefitted by the employees state Insurance Scheme. He does not indeed enjoy any retiral benefits. Before partition of the country in 1947 it was not usual to have project, construction of which required a number of years to complete but after constituting ourselves into a democratic Republic and the Government having taken in hand five year plans for development of the country there are various schemes involving the construction of works for a period extending over several years as is the case of the instant Project. It commenced in 1962 and more than 12 years having passed the completion might take another few years. In such situation it seems reasonable and fair that a workman who has, like a regular employee, spent the part of his life ranging from 5-10 years upto 20 year,

should not be thrown on the road and must be assured some benefits as are available to regular staff. The other aspect of the matter is that the employer could not compelled to retain workcharged employees after the work for which the latter had been engaged is completed, as after all, he was employed before a particular job and the employer, be it the Government or any of its public undertakings, cannot taken upon itself the responsibility of that workman for all time to come. It can be well argued that such a workmen should feel happy and content that instead of remaining un-employed be got employment for a long time.

To assure Industrial peace and economic justice to such class of workmen some balance has in my opinion to be stuck between the two extremes. It is the duty of the State under the Directive Principles enunciated in part 4 of the constitution to secure and protect that social order in which justice, social and economic could be had by all institutions of national life. I fell that it is equally the duty of an adjudicator of industrial disputes charged with the duty of administering social justice to be guided by the fundamentals contained in this chapter though he has to bear In mind the limits of the economic capacity of the employer and Endeavour must have ever be made to secure work for every citizen do in our present economy. It is not possible to immediately achieve that object. The workman employed by the respondent management are drawn from different states out of which I am informed about 8/10 thousands are from Punjab about 22000 from Himachal Pradesh and the remaining from the states of Rajasthan and Haryana. Some of the workmen are from U.P and Bihar and a handful from Kerala. The board hasby and large been consistently following the Punjab pattern in the matter of wage structure, revision thereof from time to time and grant of dearness allowance. It is only with regard to categories not appearing in the common Schedule of Rates prepared by the erstwhile United State of Punjab that the board took its independence decisions on the recommendations of its own standing committee.Even Himachal Pradesh Government generally followed the Punjab policy.The state government of Punjab in its wisdom, and I should say rightly has declared that the services of work charged employees in building and roads branch who had worked for 10 years or more would stand regularized in the sense that the workmen would be treated at par with those in the regular service of the state government.The benefit of this announcement was afterwards extended to the employees of its irrigation branch as well at the workman who held from Punjab continue to stay in their parents state the services of those who had put in 10 years or more would have been regularized the respondent management too in pursuance of its policy to follow the Punjab pattern might have regularized the services of at least of those workmen who had come from Punjab but any such course would have created awkward situation as the workmen from other States could not be discriminated in this respect.Moreover financial implications and other complications are involved.

In such circumstances stated aboveI would have directed that the services of those of the workman who have been continuously employed for more than 10 years should be regularized. But the other problems arising from such a direction including financial impact on the employer cannot be lost sight of The Central Government through the board is only managing on behalf of the state of Punjab, Rajasthan Haryana and Himachal Pradesh who are partners in the venture.Several aspects of the question were discussed with the workmen and the management in the course of arguments and a formula evolved to which the workman virtually agreed and I feel that such a solution as stated hereunder is quite just to all the parties provided it is work out, honestly stated. No doubt,what is referred to me is the matter of regularization of the services of work charge employees, but the directions that I am issuing in my opinion, amount to only granting lesser relief than claimed by the workmen. The management can also have no grievance if it wants industrial peace and is anxious to secure employment to the work-charged employees after the completion of the work. It is accordingly, directed that at the time of completion of the Project or at any other time within six months thereof for the maintenance staff for the Project or any of its Works if it is required to be recruited or transferred from any department of the State Governments or of the Central Government, the offer shall first be made to the work-charged employees in order of their seniority who have put in 10 years' continuous service or more under the Board in that category or trade where the vacancy occurs subject to the medical fitness of such workmen. The scale of wages as applicable to the workmen will not, however, be disturbed to their prejudice nor their continuity of service affected. The workmen have expressed an apprehension that near the completion of the Project trades of some of them might be changed so that it could be said that a suitable workman needed for a particular job was not available and an outsider was therefore necessary to be employed. To protect the workmen against this possible denial of their rights it is further directed that category or trade of no workman shall be changed within one year preceding the completion of the Project without his consent in writing and that if any such change without consent is made it will have no consequence inasmuch as such a workman will be entitled to the job of his earlier trade provided the vacancy relates to that trade. As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these States or in any other part of the country where there is a need for workmen of those trades."

21. A perusal of aforesaid findings made it ample clear that the order has been passed by the then learned Presiding Officer, CGIT, Chandigarh to maintain industrial peace and to secure employment to the work charged employees after the completion of the work and it was also held by the learned CGIT thatState Govt. who are beneficiary under the project and the Central Govt. will make every reasonable effort to get those workmen re-

employed at any other project or work whether in any one of these States or in any other part of the country where there is a need of workmen of those trades.

22. Admittedly, in this case, no effort was made by the respondent to give any employment after the retrenchment of the workmen and even there is non-compliance of Rules 77 and 78 of Industrial Rules. The same are reproduced below:

77. Maintenance of seniority list of workmen*. -The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated to be arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.*

78. Re-employment of retrenched workmen. - *(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place in the premises of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter:*

Provided that where the number of such vacancies is less than the number of retrenched workmen, it shall be sufficient if intimation is given by the employer individually to the senior-most retrenched workmen in the list referred to in rule 77 the number of such senior-most workmen being double the number of such vacancies:

Provided further that where the vacancy is of a duration of less than one month there shall be no obligation on the employer to send intimation of such vacancy to individual retrenched workmen:

Provided also that if a retrenched workman, without sufficient cause being shown in writing to the employer, does not offer himself for re-employment on the date or dates specified in the intimation sent to him by the employer under this sub-rule, the employer may not intimate to him the vacancies that may be filled on any subsequent occasion.]

(2) Immediately after complying with the provisions of sub-rule (1), the employer shall also inform the trade unions connected with the industrial establishment, of the number of vacancies to be filled and names of the retrenched workmen to whom intimation has been sent under that sub-rule:

Provided that the provisions of this sub-rule need not be complied with by the employer in any case where an intimation is sent to every one of the workmen mentioned in the list prepared under rule 77.

23. However, the present work charged employee and other work-charged employees have been retrenched long back and even at the stage it is impossible to re-employe them. However, certainly in respect of workcharged employees present Respondent was directed by the Hon'ble Supreme Court in Judgment of Jaswant Singh (Supra) to give benefits in terms of settlement and award dated 15.05.1974. The main purpose of Hon'ble Supreme Court and Ld. CGIT Chandigarh was to rehabilitate to some extent the work charged employees and restore peace and congenial atmosphere that is why Ld. CGIT Chandigarh had given directions to all state to re-employe them. Thus, it does not lie in the mouth of present Respondent that no relief can be granted against present Respondent as petitioners are not their employees.

A. So far as this argument of Ld. AR of the management that those work charged employees only who have completed 10 years of service were required to be adjusted within 6 months from their retrenchment is concerned, the same is devoid of merit as no effort was made by the management to adjust the work charged employees. Moreover, no documentary evidence has been produced that any effort was made to adjust the workman after his retrenchment. Further, Ld. CGIT Chandigarh in its last lines concluded as under:-

"As regards those of the workmen who cannot be absorbed on the regular maintenance staff. I have no reason to doubt that the State Government who are beneficiaries under the Project and also the Central Government will make every reasonable effort to get them re-employed at any other Project or work whether in any one of these states or in any other part of the country where there is a need of workmen of those trades"

Nothing has come on record that above directions were complied with.

24. Moreover, in the absence of production of settlement between work charged employees and management, it cannot be interfered what were the terms and conditions in the said settlement. Further, CGIT Chandigarh has fixed ten years time and accrual of vacancy within six months keeping in view the facts and circumstances of the case and has evolved his own formula to bring peace and harmony between work charged employees and management but it cannot be said to be a universal policy in the absence of production of settlement between work charged employees and management. However, no effort was made to adjust the petitioners in view of order of CGIT.

25. As regard, this contention of learned AR of management that petitioners were not the employees of the BBMB but were the employees of BCB, the same is devoid of merit as Discharge certificate was issued by the

BBMB. Moreover, as per respondent Beas Control Board was constituted in the year 1960. BCB was constituted in the year 1966 and all the projects were transferred from Beas Control Board to BCB in the year 1966 thereafter as per Section 79 of the Punjab Re-organisation Act, BMB was constituted for administrative, maintenance and operation of various works as mentioned in Section 79 itself. Section 80(6) of the Punjab Re-organisation Act provides that BMB constituted under Section 79 of the Act shall be re-named as BBMB when any of the components of the Beas Project has been transferred under sub-section 5 and the BCB shall cease to exist when all the component of the Beas Project have been so transferred. All the projects under BCB were completed in the year 1984 and BCB ceased to exist in 1984. When all work of BCB stands transferred to BBMB so it cannot be said that BBMB is separate identity than BCB. Rather BCB has merged in BBMB. Moreover, Hon'ble Supreme Court in Jaswant Singh case(supra) in respect of work charged employees has no where stated that relief can be sought by work charged employees only against the BCB. So contention of Ld. AR of the management that BCB and BBMB are two separate entities is devoid of merit.

26. So far this argument of Law Officer for the respondent that the case is hopelessly time barred is concerned, the same is again devoid of merits as there was non-compliance of Rule 77 and 78 of Industrial Rules which has been reproduced above. Moreover, there is no limitation period prescribed for filing a reference. Moreover, reference was received in the year 2005 and thereafter, several rounds of litigations have taken place. So far as case laws on the point of limitation the same are not attracted in the present case as there was no compliance of Judgment of Jaswant Singh case (Supra).

27. However, it is added that workman was allowed terminal benefits as admitted by him. Moreover, it is also not case of the petitioner that there is breach of Section 25 F of the Act.

28. Further, there was non-compliance of Jaswant Singh Case (Supra), Reference No.2C of 1971 and Rule 77 & 78 of Industrial Rules and in this case it would be highly difficult to re-employe the workman. The only remedy left is to compensate the workman in term of money.

29. Keeping in view the fact and circumstances of the present case and other connected case of similar nature the following scheme of compensation is deemed fit by this Tribunal:

i. Work charged employee who has completed 5 years of service shall be entitled for Rs.50,000/- along with interest @9% per annum as compensation from the date of moving of application till the realization of amount.

ii. Work charged employee who has completed less than 5 years but more than 1 year would be entitled Rs.25,000/- along with interest @9% per annum from the date of moving of application till the realization of amount.

iii. Those employees who have not completed 1 year will not be entitled for any compensation in the present case.

The present work charged expired on 12.08.2023 and his legal heirs were impleaded. The Workman in his statement has stated that he was employed on 26.11.1969 and was retrenched on 25.10.1975. There is no denial of this fact in the written statement by Management. Hence, it is held that Workman worked from 26.11.1969 to 25.10.1975. He worked for 5 years and 11 months (more than 5 years) so he is entitled of Rs.50,000/- along with interest @9% per annum from the date of moving the application till its realization.

30. The reference is answered accordingly and stands disposed off.

31. Let copy of this award be sent to the Appropriate Government as required under Section 17 of the Act for publication.

KAMAL KANT, Presiding Officer

नई दिल्ली, 30 अक्तूबर, 2024

का.आ. 2087.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **प्रबंधक ,जिंदल सॉ लिमिटेड, डेडवास भीलवाड़ा ; प्रबंधक, विकास इंजीनियरिंग वर्कर्स पुर ,भीलवाड़ा, द्वारा - प्रोपराईटर श्री डी.के. गोयल, सेंती , चित्तौड़गढ़ ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री रौनक सुवालका, कामगार ,** के बीच अनुबंध में निर्दिष्ट औद्योगिक न्यायाधिकरण एवं श्रम न्यायालय-भीलवाड़ा पंचाट(संदर्भ संख्या 61/2017 एल.सी.आर) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 30.10.2024 को प्राप्त हुआ था।

[सं. एल-42025/07/2024-189-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 30th October, 2024

S.O. 2087.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 61/2017 L.C.R) of the **Industrial Tribunal and Labor Court-Bhilwara,** as shown in the Annexure, in the Industrial dispute between the employers in relation to The **Manager, Jindal Saw Limited, Redwas, Bhilwada; The Manager, Vikas Engineering Workers Pur, Bhilwada, Through-Proprietor Shri D K Goyal, Senti, Chittorgarh, and Shri Raunak Suwalka, Worker,** which was received along with soft copy of the award by the Central Government on 30.10.2024.

[No. L-42025/07/2024-189-IR(DU)]

DILIP KUMAR, Under Secy.

अनुलग्नक

श्रम न्यायालय, भीलवाड़ा

पीठासीन अधिकारीःश्री सुशील कुमार शर्मा,(जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 61 /2017 एल.सी.आर

श्री रौनक सुवालका पुत्र श्री बद्रीलाल सुवालका, .

नि0–डी–5/85, लेबर कोलोनी, भीलवाडा। द्वारा–महामंत्री, .

लौह धातु उत्पादक श्रमिक संघ, 306–डी, आजादनगर, भीलवाडा।.

.. प्रार्थी

: **बनाम** :

1.प्रबंधक, जिंदल शा लि0, डेडवास, तह0–मांडल, जिला–भीलवाडा। .

2.प्रबंधक, विकास इंजीनियरिंग वर्क्स, पुर, जिला–भीलवाडा, जरिये– . .

प्रोपराईटर डी. के.गोयल पुत्र श्री तेजालाल गोयल, निवासी– . .

12, वैशालीनगर, सेगवा रोड, सैंती, चितौडगढ।.

विपक्षीगण

उपस्थित :

श्री के. एल. बुलावत, प्रतिनिधि–प्रार्थी की ओर से। .

श्री आर. एन. गुप्ता, अधिवक्ता–विपक्षी सं0 एक की ओर से। .

श्री ओ. पी. देवाणी, अधिवक्ता–विपक्षी सं0 दो की ओर से।

::: पंचाट : दिनांक 2.9.2024

प्रार्थी श्रमिक ने विपक्षी के विरूद्ध सेवा पृथककरण बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया, जहां कोई समझौता नहीं होने के कारण सुलह अधिकारी द्वारा दिनांक 23.8.2017 को अपना विवाद इस न्यायालय के समक्ष पेश करने के निर्देश प्रार्थी को दिये गये। तत्पश्चात् प्रार्थी ने औद्योगिक विवाद अधिनियम 1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद इस न्यायालय के समक्ष पेश किया।

प्रार्थी ने अपने क्लेम प्रार्थना पत्र में यह अंकित किया कि उसे विपक्षी ने दिनांक 1.6.2013 को हेल्पर केशर के रूप में नियोजित किया, तब से लेकर दिनांक 26.3.2015 तक उसने नियमित रूप से कार्य किया। उसने प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों से अधिक अवधि तक कार्य किया तथा उसका नियोजन अधि0, 1947 की धारा 25–बी के तहत 'नियमित नियोजन' की तारीफ में आता है। विपक्षी ने बिना कोई नोटिस दिये, बिना कोई जांच कार्यवाही किये, बिना किसी उचित कारण के उसकी नियमित सेवाओं को समाप्त कर दिया। विपक्षी ने अधि0 1947 की धारा 25–एफ,जी व एच के आज्ञापक प्रावधानों की अवहेलना की है। प्रार्थी ने समस्त वेतन परिलाभों सहित पुनः पूर्व पद पर नियोजित करवाने की प्रार्थना की।

विपक्षी सं0 एक की ओर से क्लेम प्रार्थनापत्र का जवाब पेश कर जाहिर किया गया कि उन्होंने कार्य संचालन एवं देखरेख का ठेका विपक्षी सं0 दो को दिनांक 30.11.2016 तक के लिए दे रखा था। विपक्षी सं0 दो ने उनके यहां दिनांक 30.11.2016 को कार्य पूर्ण कर लिया। प्रार्थी ने विपक्षी सं0 के अधीन ठेके पर दिये गये कार्य के तहत हैल्पर के रूप में काम किया था। प्रार्थी ने उत्तरदाता के अधीन प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों तक कार्य नहीं किया तथा अधि0 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में भी नहीं आता है। प्रार्थी दिनाक 27.3.2015 को विपक्षी सं0 दो के पैरोल पर काम करते हुए चोटिल हुआ तथा उसके ईलाज का सारा खर्चा विपक्षी सं0 दो ने वहन किया था। दिनांक 30.11.2016 को विपक्षी सं0 दो की ठेका अवधि समाप्त होने एवं कार्य पूर्ण होने पर उक्त ठेके पर कार्यरत श्रमिकों को समायोजित कर हिसाब पूर्ण किया गया। प्रार्थी व उत्तरदाता के मध्य श्रमिक–नियोजक के सबंध नहीं रहे हैं। क्लेम प्रार्थनापत्र खारिज करने की प्रार्थना की गई।

विपक्षी सं0 दो की ओर से जवाब पेश कर जाहिर किया गया कि प्रार्थी उनके यहां अस्थाई तौर पर ठेका श्रमिक के रूप में कार्यरत रहा है। उनका ठेका दिनांक 30.11.2016 से समाप्त हो जाने से प्रार्थी को संपूर्ण भुगतान किया जा चुका है। प्रार्थी का नियोजन उनके यहां 'नियमित नियोजन' नहीं रहा है। क्लेम प्रार्थनापत्र खारिज करने की प्रार्थनाकी गई।

प्रार्थी की ओर से कोई साक्ष्य पेश नहीं की गई । साक्ष्य हेतु दिनांक 7.2.2020 को प्रार्थी हाजिर आया तथा उस दिन उसके बयान अधूरे रहे– तत्पश्चात् अनेक अवसर दिये जाने के बाद भी प्रार्थी साक्ष्य हेतु हाजिर नहीं आया। दिनांक 10.8.2021, 6.9.2021, 12.7.2023, 10.10.2023 को साक्ष्य पेश करने के लिए प्रार्थी को अंतिम मौके भी दिये गये थे, लेकिन फिर भी प्रार्थी साक्ष्य हेतु हाजिर नहीं आया। अतः दिनांक 14.8.2024 को प्रार्थी की साक्ष्य का अवसर बंद किया गया।

विपक्षीगण ने साक्ष्य पेश नहीं की।

बहस सुनी गई। पत्रावली का घ्यानपूर्वक अवलोकन किया गया।

सर्वप्रथम यहां हमें यह देखना है कि क्या प्रार्थी द्वारा विपक्षी के अधीन सेवा पृथक करने की तिथि 27.3.2015 से पूर्व के कलैण्डर वर्ष में 240 दिन या इससे अधिक दिवसों तक कार्य किया गया है? यदि हां, तो क्या विपक्षी द्वारा प्रार्थी को दिनांक 27.3.2015 को अवैध रूप से सेवा पृथक किया गया? यदि हां, तो प्रार्थी क्या अनुतोष प्राप्त करने का अधिकारी है?

जहां तक प्रार्थी द्वारा विपक्षीगण के अधीन सेवा पृथक करने की तिथि 27.3.2015 से पूर्व के कलैण्डर वर्ष में 240 दिन या इससे अधिक दिवसों तक कार्य करने का प्रश्न है, इस संबंध में प्रार्थी ने क्लेम प्रार्थना पत्र में यह अंकित किया कि उसने विपक्षी के अधीन दिनांक 1.6.2013 से 26.3.2015 तक हेल्पर के रूप में काम किया तथा बिना कोई कारण बताये उसे विपक्षीगण ने सेवा से पृथक कर दिया। उसने प्रत्येक कलैण्डर वर्ष में 240 दिनों से अधिक दिवसों से अधिक अवधि तक कार्य किया तथा उसका नियोजन अधि0 1947 की धारा 25–बी के तहत 'नियमित नियोजन' की तारीफ में आता है, लेकिन अपने इन अभिकथनो के समर्थन में प्रार्थी स्वयं ही बतौर गवाह अनेक अवसर दिये जाने के बावजूद भी न्यायालय में हाजिर नहीं आया, जिससे उसके द्वारा अपने क्लेम प्रार्थनापत्र में किये गये अभिवचनों को विश्वसनीय नहीं माना जा सकता है और यह माना जा सकता है कि स्वयं प्रार्थी भी उसके द्वारा क्लेम प्रार्थनापत्र में किये जा रहे अभिवचनो से सहमत नहीं है। ऐसी स्थिति में प्रार्थी के द्वारा विपक्षीगण के अधीन सेवा पृथककरण की तिथि 27.3.2015 से पूर्व के कलैण्डर वर्ष में 240 दिन या इससे अधिक दिवसों तक कार्य करना साबित नहीं माना जा सकता है। प्रार्थी स्वयं भी बतौर गवाह अनेक अवसर दिये जाने के बावजूद भी न्यायालय में हाजिर नहीं आया है। अतः उक्त विवेचन के आधार पर प्रार्थी को विपक्षी के द्वारा दिनांक 27.3.2015 को अवैध रूप से सेवा से पृथक किया जाना साबित नहीं पाया जाता है। ऐसी स्थिति में प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है।

:: **आदेश** ::

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि प्रार्थी श्री रौनक सुवालका, विपक्षीगण से कोई राहत प्राप्त करने का अधिकारी नहीं है।

सुशील कुमार शर्मा, न्यायाधीश, .

नई दिल्ली, 6 नवम्बर, 2024

का.आ. 2088.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में,केन्द्रीय सरकार **प्रबंध निदेशक, स्कूटर्स इंडिया लिमिटेड, सरोजिनी नगर, लखनऊ,** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री इंद्रदेव,कामगार,** के बीच अनुबंध में निर्दिष्ट केन्द्रीय सरकार औद्योगिक अधिकरण- सह-श्रम न्यायालय, लखनऊ पंचाट(संदर्भ संख्या **30 of 2012**) को जैसा कि अनुलग्नक में दिखाया गया है,प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 06.11.2024को प्राप्त हुआ था।

[सं. एल-42011/172/2011-आईआर(डीयू)]

दिलीप कुमार, अवर सचिव

New Delhi, the 6th November, 2024

S.O. 2088.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 30 of 2012) of the **Central Government Industrial Tribunal cum Labour Court, Lucknow** as shown in the Annexure, in the Industrial dispute between the employers in relation to **The Managing Director, Scooters India Ltd., Sarojini Nagar, Lucknow , and Shri Indradev, Worker,** which was received along with soft copy of the award by the Central Government on 06.11.2024.

[No. L-42011/172/2011-IR(DU)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT, LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 30/2012

Ref. No. L-42011/172/2011-IR(DU) dated: 05.01.2012

BETWEEN

Shri Indradev S/Olate Ram Manohar Sharma Add-521ka/11 Bada Chandganj Chapartalla, Aliganj Lucknow (UP)

AND

Managing Director, Scooters India Ltd.,

Sarojini Nagar, Lucknow (UP)

AWARD

Sri V.K. Jaiswal - Counsel for the Applicant/Workman

Sri A.K. Singh & Sri Sharad Shukla- Counsel for the Respondent

On 05.01.2012 appropriate government by order no.L-42011/172/2011-IR (DU) has referred the following dispute to this Tribunal and accordingly the I.D. Case No. 30 of 2012 (Indradev vs. M/s. Scooter India Ltd.) was registered:-

> *"Whether the action of the management of Scooters India Ltd., Lucknow in not considering the application of workman Sri* Indradev S/Olate Ram Manohar Sharma*, Grade 'D' dated 29.1.1993 and voluntarily retiring him w.e.f. 31.12.1993 without paying entire pensionery benefits, is legal and justified? What relief the workman is entitled to?"*

Case of claimant:

On 27.3.2012 on behalf of workman, Statement of Claim filed stating therein the following averments :-

a) The applicant was appointed as semi skilled worker under the opposite party/employer on 30.10.1978 being fully eligible for the post and his Service No. is 04773 and he was initially granted Grade 'D'. The applicant/workman started performing his work and duties with all satisfaction of his all concerned.

b) All of sudden in the year 1993 a rumors was flown away in the campus of company that Manager of the respondent is saying that the company is going to be windup within a very short period due to heavy financial loss and as such employees may take his all service benefits as soon as possible from the company otherwise company will not responsible for the same. Those employees who will seek his voluntary retirement under the announced voluntary retirement scheme, they will call back in job/service on requirement of work on seniority basis.

c) The applicant believing rumor on 30.11.1993 applied for his voluntary retirement with effect from 31.3.1994 under the voluntary retirement scheme dated 8.12.1988.

d) A circular dated 6.11.1993 was also circulated by the respondent stating therein that the voluntary retirement scheme circulated vide circular dated 8.12.1988 will remain suspended with effect from 1.12.1993.

e) The applicant immediately on 30.11..1993 moved an application for withdrawing his voluntary retirement, which was sought by him with effect from 31.03.1994, then he came to know that his voluntary retirement has already been accepted by the management of opposite party on the same date i.e. on which he moved an application on 30.11.1993.

f) The management was fully aware with all things but voluntary retirement of the applicant was accepted knowingly and with mal intention on the same date when the applicant submitted his VRS application i.e. on 30.11.1993 only to oust him from the job, therefore the action of the respondent is quite bad in law and unjust.

g) The applicant applied for voluntary retirement on 30.11.1993 w.e.f. 31.03.1994 but his voluntary retirement was accepted by the respondent on the same date when he moved his application on 30.11.1993. The management is well known that the VRS circulated vide letter dated 8.12.1988 will remain suspended w.e.f. 1.12.1993, therefore, action of the respondent in accepting his VRS w.e.f. 30.11.1993 instead of 31.03.1994 is fully illegal, arbitrary and unjust.

h) If the applicant's voluntary retirement was not accepted w.e.f. 30.11.1993 i.e. on the date when he moved his application for VRS, his application would be cancelled or rejected by the management of the respondent as he submitted another application dated 30.11.1993 for withdrawing his voluntary retirement and thus he would remain in job till attaining his retirement age from the job. In view of this the respondent may be directed to pay entire salary and other service benefits to the applicant from the date of his relieve till the date of his retirement.

i) It is provided in the standing orders of the company that the pay will be revised on each 5 years of employees which has not been done in the matter of the applicant before accepting his VRS. The company is quietly running till date, therefore his voluntary retirement deserves to be quashed and the respondent be directed to reinstate the applicant on the post with full salary benefits from the date of relieve from the job till his date of retirement from the post and pay his entire due salary with 12% interest to the applicant.

Case of respondent:

On 5.9.2012 the written statement filed on behalf of the respondent M/s. Scooters India Limited taking the following **preliminary objections** :-

a) The matter of dispute does not constitute a valid industrial dispute, as the dispute has not been transformed into an industrial dispute within the meaning of the terms as defined in Industrial Disputes Act 1947.

b) The Central Government has not taken facts in cognizance while making a reference to the Tribunal. The reference is not based on the pleadins of the parties advanced at the conciliation stage, especially the submissions of the respondent before the Conciliation Officer/Government have been completely ignored, while making the reference for adjudication. No cause of action arose on the date as mentioned in reference order as such also on his ground alone, the reference order is bad in the eyes of law.

c) The Industrial Disputes Act 1947 has been amended vide Industrial Disputes (Amendment) Act, 2010 (Act No.24 of 2010) and period of limitation has been provided by virtue of Section 2A(3), which is quoted as below:-

"2A(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of services as specified in sub-section (1)"

d) A period of limitation has been provided i.e. three years from the alleged date of termination of services, but the instant case has arisen after a period of 18 years which is liable to the dismissed on the ground of limitation alone.

e) Even otherwise, the applicant has not raised industrial dispute within reasonable time. The applicant has raised an industrial dispute regarding his acceptance of Voluntary Retirement very belatedly i.e. after elapse of more than about 18 years. It is trite law as held by the Apex Court that the dispute must be raised within reasonable period of time from the cause of action and where the industrial dispute is not raised within reasonable period of time the Labour Court or Industrial Tribunal should decline to grant any interim relief to the workman.

f) The Apex Court in the case of Nedungadi Bank Ltd. Versus K.P. Madhavankutty & others : 2000(84) FLR 673 SC, S.M. Niljakar Vs. Telecom District Manager, Karnataka:2003(97) FLR 608 SC, Manager R.B.I. Vs. Gopinath Sharma : 2006 FLR (110) FLR 803 SC has already held that the dispute must be raised within reasonable period of time from the cause of action and a dispute which is state could not be subject matter of reference.

g) The present reference is highly belated, inasmuch as it is made after more than eighteen years from the alleged date of cause of action. The instant delay caused prejudice to the respondent since the management not presumed to preserve the relevant record for such a long period.

h) It is settled law of the land that the person who is approaching this Tribunal should come with clean hand but in the instant matter, the applicant has concealed the actual material facts which are very necessary for the purposes of the adjudication of present matter of dispute, if any, as such also the reference is not maintainable before this Tribunal and accordingly deserves to be rejected.

i) The applicant had preferred a Writ Petition No.: 1130 (S/S) of 1995: Indra Deo and others Vs. M/s Scooters India Limited and others challenging the alleged action of management in accepting the application for Voluntary Retirement before the Hon'ble Allahabad High Court, Lucknow Bench, Lucknow along with other similar situated persons, which was disposed of by order dated 18.12.2000 alongwith Special Appeal No.48 (SB) of 1997 before the Division Bench of the Hon'ble High Court, Lucknow Bench, Lucknow.

j) An identical situated employee had also preferred a Writ Petition No.1165(SS) of 1994:Jagdish Chandra Nigam Versus M/s. Scooters India Limited before the Hon'ble High Court, Lucknow Bench, Lucknow challenging the action of the management in accepting the application for voluntary retirement, which has been dismissed by means of detail judgment and order dated 9.1.1997.

k) Being aggrieved from the aforesaid judgment and order dated 9.1.1997, Special Appeal No.48 (SB) of 1997 was preferred before the Division Bench of the Hon'ble High Court, Lucknow Bench, Lucknow and after conducting the necessary proceedings, the Hon'ble Division Bench of the Hon'ble High Court decided the said special appeal by means of judgment and order dated 18.12.2000 and set aside the judgment and order passed by the Single Judge to the extent that in case of the appellant/petitioner deposits the entire amount which he has received through cheque dated 12.3.1994 alongwith interest at the rate of 12% with respondent company as well as other benefits which might have been given to the appellant within four weeks from the production of certified copy of the order, the appellant will be reinstated in service.

l) The management preferred Special Leave Petition challenging the judgment and order dated 18.12.2000 before the Hon'ble Supreme Court of India, which was letter on converted into Civil Appeal No.1089 of 2004:M/s. Scooters India Limited & others Vs. Jagdish Chandra Nigam which was allowed by means of the judgment and order dated 12.2.2004 and the judgment and order dated 18.12.2000 rendered by the Division Bench of the High Court, Lucknow Bench, Lucknow has been set aside.

m) Being aggrieved from the judgment and order dated 12.2.2004, Sri Jagdish Chandra Nigam had preferred a Review Petition No.747 of 2004: J.C. Nigam Vs. M/s. Scooters India Limited, which has also been dismissed by the Hon'ble Supreme Court of India vide its judgment and order dated 28.4.2004. Sri Nigam also preferred a Curative Petition No.152 of 2008 and the same has also been dismissed by the Constitution Bench of Hon'ble Supreme Court vide its judgment and order dated 21.1.2009. Thus it is crystal clear that the matter in dispute has already been decided by the competent court of law and now nothing remains to be adjudicated upon by this Tribunal.

Accordingly, it has been prayed by respondent that the present industrial dispute may be dismissed being devoid of any merit.

Thereafter documents, evidences etc. had been exchanged between the parties. Sri Sharad Kumar Shukla, Learned Counsel for the respondent submits that the preliminary objections taken by them may be considered first and thereafter the matter be heard on merits.

Finding & conclusion on the Preliminary Objections:

I have heard Sri V.K. Jaiswal, learned counsel for claimant and Sri Sharad Kumar Shukla and Sri A.K. Singh, learned counsel for the respondent.

It is not in dispute between the parties that Sri Indradev, applicant/workman was appointed as semi skilled worker in establishment known as Scooter India Limited on 30.01.1978, Grade-D having service No. 04773. Scooter India Limited floated a scheme known as Voluntary Retirement (hereinafter referred to as 'VRS').

On 30.11.1993 applicant submitted an application for opting VRS and the same was accepted by the respondent on 30.11.1993 and his date of release under the said scheme was notified as 31.11.1993 and consequently applicant was voluntary retired from service under the Scheme with all consequential benefits and the same were received by him.

Meanwhile on 6.11.1993 a circular was issued which reads as under:-

> "*Sub: Voluntary Retirement Scheme – suspension thereof*
>
> *The Voluntary retirement scheme circulated vide circular no.SIL/PER/NC-63/88 dated 8.12.88 for the employees of the Company will remain suspended w.e.f.1.12.1993*."

So a letter/representation dated 30.11.1993, submitted by applicant for withdrawal/rejection of his application dated 30.11.1993 for voluntary retirement from services on the ground mentioned therein.

Further, one Sri Jagdish Chandra Nigam whose case was identical to the case of claimant, filed a Special Appeal No.48 (SB) of 1997, allowed by means of judgment and order dated 18.12.2000 (reported in 2000CJ(All) 309), the relevant portion, quoted below:-

> *"18. The appeal is allowed. The judgment and order passed by the Hon'ble the single Judge is set aside to the extent, the observations made in the foregoing paragraph of this judgment. But we provide that in case the appellant deposits the entire amount which he has received through cheque dated March 12, 1994 alongwith interest at the rate of 12% with Scooters India Limited, as well as other benefits which might have been given to the appellant within four weeks from the date of production of the certified copy of this order, the appellant will be reinstated in service. But considering the facts and circumstances of the case, we further provide that the appellant will not be entitled for payment of back wages.*
>
> *19. As far as the case of the petitioners of other writ petitions are concerned, the fact of those writ petitioners are not exactly identical to the facts which have been indicated in the present Special Appeal. But as this Court has decided the present Special Appeal more or less on same propositions of law although the fact might be different, we heard the arguments of the learned counsel for the parties in all the writ petitions alongwith special appeal, which are connected with this special appeal as well.*
>
> *20. As we have already indicated that those employees who withdrew their application for voluntary retirement before the prospective date mentioned in the original application for voluntary retirement, shall he entitled for the relief. But those persons, who have not withdrawn their voluntary retirement before the prospective date, would not be entitled for any relief.*
>
> *21. We further provide that those petitioners, who opted for the Voluntary Retirement Scheme from a prospective date and withdrew their resignations before the said prospective date, but were, relieved by the management of the Scooters India Ltd. would be entitled to the relief as Jagdish Chandra Nigam has been provided, provided they filed the writ petitions within one month from the date of the relieving orders. If they had filed the writ petition after one month from the date of relieving orders, they would not be entitled for any relief.*
>
> *22. With the aforesaid observations, the Special Appeal as well as all the writ petitions are disposed of*."

Judgment/order dated 18.12.2000 challenged by way of filing a S.L.P. having Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) along with other S.L.P.s which were connected. In the above noted S.L.P. an order dated 12.2.2004 was passed by the Hon'ble Supreme Court which reads as under:-

> "*Leave Granted.*
>
> *For the reasons stated in our order passed today in C.A. No.4098/2002, this appeal is allowed.*
>
> *The order and judgment under challenge is set aside. There shall be no order as to costs*."

Thus, as per the order passed by the Hon'ble Supreme Court, the S.L.P. filed by M/s. Scooters India Limited was allowed and judgment and order passed in the case of Special Appeal filed by Sri Jagdish Chandra Nigam was set aside/S.L.P. filed by Sri Jagdish Chandra Nigam was dismissed.

Moreover order passed by the Hon'ble Supreme Court in Special Leave Petition (Civil) No.10352/2001 (M/s. Scooters India Ltd & others versus Jagdish Chandra Nigam) based upon order dated 12.2.2004 passed by the Hon'ble Supreme Court in C.A. No.4098 of 2002 (Bank of India & others Vs. Pale Ram Dhania), reproduced below:-

"1. It is not disputed that the appellant Bank introduced a Voluntary Retirement Scheme, 2000 (herein referred to as "the Scheme") for its employees which had the approval of its Board of Directors. The Scheme was operative w.e.f. November 15, 2000 to December 14, 2000 for the employees who sought voluntary retirement. It is not disputed that the respondent herein who was an employee of the appellant Bank sought voluntary retirement under the Scheme on November 30, 2000. It is also not disputed that on December 2, 2000 he wrote to the Bank for withdrawal of his application for voluntary retirement. On January 22, 2001, the appellant Bank accepted the request for voluntary retirement of the respondent. Further, on January 25, 2001, the respondent withdrew the retiral benefits deposited in the Bank in his name as per voluntary retirement. It appears that the respondent changed his mind after the respondent was relieved from the employment and he filed a petition under Article 226 of the Constitution challenging the acceptance of his request for voluntary retirement. A learned Single Judge of the High Court allowed the petition and set aside the acceptance of the application for voluntary retirement submitted by the respondent. Aggrieved, the appellants preferred a letters patent appeal which was dismissed. It is against the said judgment, the appellants are in appeal before us.

2. A Bench of three Judges of this Court in Punjab National Bank v. Virender Kumar Goel , has held that an employee who sought voluntary retirement and subsequently wrote for its withdrawal but has withdrawn the amount of retiral benefits as per the Voluntary Retirement Scheme, is not entitled to the withdrawal of his application for voluntary retirement. It is not disputed that in the present case the respondent herein withdrew the amount of retiral benefits on January 25, 2001.

3. For the aforesaid reason, this appeal deserves to be allowed. We order accordingly. The order and judgment under challenge is set aside. There shall be no order as to costs".

In Review Petition (Civil) No.53 of 2003 arising out of Appeal (Civil) No.896 of 2002 (Punjab National Bank Versus Virender Kumar Goel & others), the Hon'ble Supreme Court on 21.1.2004 passed an order. The relevant of order dated 21.1.2004 reads as under:-

"I.A.NOS. 1-22

These applications have been filed by the State Bank of Patiala for clarification/directions. The ground taken in these applications is that the State Bank of Patiala is not a nationalised bank. It is hundred per cent a subsidiary of the State Bank of India. The VRS scheme floated by the State Bank of Patiala is in para-materia with the scheme floated by the State Bank of India. This Court in the judgment dated 17.12.2002 allowed the appeals filed by the State Bank of India but nothing has been said about the appeals filed by the State Bank of Patiala. In the interregnum, a two-Judge Bench of this Court, in which one of us (Sema, J) was a member, considered the same question in Civil Appeal No. 2341 of 2003 arising out of Special Leave Petition No. 23530 of 2002 entitled State Bank of Patiala Vs. Jagga Singh, disposed of on 13.3.2003, where this Court after considering Clause 8 of the scheme floated by the State Bank of Patiala and Clause 7 of the scheme floated by the State Bank of India, had held that the scheme floated by the State Bank of Patiala is almost identical of the scheme floated by the State Bank of India. Accordingly, the appeal filed by the State Bank of Patiala was allowed. Review Petition was also dismissed on 3.12.2003. In view thereof, we clarify that our direction No.2, allowing the appeals filed by the State Bank of India, would also include the appeals filed by the State Bank of Patiala. In other words, the appeals filed by the State Bank of Patiala are allowed in terms of our judgment dated 17.12.2002. I.A.NOS. 14-15 I.A.No.14 has been filed by an employee of the bank sought to clarify/modify our order dated 17.12.2002. In this case, admittedly, the benefit of the scheme had been withdrawn by the applicant on 27.2.2001. The applicant had clearly admitted, in ground E of the application, withdrawal of the amount so credited in his account, albeit compelling financial constraints.

I.A.No.15 has been filed by an employee of the bank for clarification/modification of our order dated 17.12.2002. In para 6 of the application, the applicant admitted that he had withdrawn and utilised the benefit of the scheme credited in his account.

As noticed in our judgment, having accepted the benefit under the scheme by withdrawing and utilisation thereof they are not permitted to approbate and reprobate."

Moreover Sri J.C. Nigam filed a Review Petition (Civil) No.747 of 2004 in C.A. No.1089 of 2004 (J.C. Nigam Versus M/s. Scooter India Limited & others) before the Hon'ble Supreme Court in which the following order dated 28.4.2004 passed:-

"*We do not filed any merit in the review petition and the same is accordingly dismissed*."

Thereafter, Sri J.C. Nigam filed a Curative Petition No.152 of 2008 against order dated 28.4.2004 passed in Review Petition (Civil) No.747 of 2004 which was dismissed by an order dated 20.1.2009, quoted below:-

"*We have perused the petition and the connected papers. In our view, no case is made out within the parameters indicated in the decision of this Court in Rupa Ashok Hurra Vs. Ashok Hurra & Anr. 2002(4) SCC 388. Hence, the Curative Petition is dismissed*."

In addition to the above said facts, Hon'ble the Apex Court in the constitution bench in the case of ***Rupa Ashok Hurra Versus Ashok Hurra & Anr, reported in 2002(4) SCC 388*** held as under:-

"Incidentally, this Court stands out to be an avenue for redressal of grievance not only in its revisional jurisdiction as conferred by the Constitution but as a platform and forum for every grievance in the country and it is on this context Mr.Shanti Bhushan, appearing in support of the some of the petitioners, submitted that the Supreme Court in its journey for over 50 years has been able to obtain the confidence of the people of the country, whenever the same is required be it the atrocities of the police or a public grievance pertaining to a governmental action involving multitudes of problems. It is the Supreme Court, Mr. Shanti Bhushan contended, where the people feel confident that justice is above all and would be able to obtain justice in its true form and sphere and this is beyond all controversies. It has been contended that finality of the proceeding after an Order of the Supreme Court, there should be, but that does not preclude or said to preclude this Court from going into the factum of the petition for gross injustice caused by an Order of the Supreme Court itself under the inherent power being an authority to correct its errors any other view should not and ought not be allowed to be continued. Needless to record here, however, that review jurisdiction stand foisted upon this Court in terms of the provisions of the Constitution, as noticed hereinbefore and it is also well-settled that a second review petition cannot be said to maintainable. Reference maybe made in this context to a decision of this Court in the case of J.Ranga Swamy v. Govt. of A.P. & Ors. (AIR 1990 SC 535), wherein this Court in paragraph 3 stated as below :-

> *"We are clearly of the opinion that these applications are not maintainable. The petitioner, who appeared in person, referred to the judgment in Antulay's case (1988) 2 SCC 602 : (AIR 1988 SC 1531). We are, however, of the opinion that the principle of that case is not applicable here. All the points which the petitioner urged regarding the constitutionality of the Government orders in question as well as the appointment of respondent instead of petitioner to the post in question had been urged before the Bench, which heard the civil appeal and writ petitions originally. The petitioner himself stated that he was heard by the Bench at some length. It is, therefore, clear that the matters were disposed of after a consideration of all the points urged by the petitioner and the mere fact that the order does not discuss the contentions or give reasons cannot entitle the petitioner to have what is virtually a second review."*

True, due regard shall have to have as regards opinion of the Court in Ranga Swamy (supra), but the situation presently centres round that in the event of there being any manifest injustice would the doctrine of ex debito justitiae be said to be having a role to play in sheer passivity or to rise above the ordinary heights as it preaches that justice is above all. The second alternative seems to be in consonance with time and present phase of socio-economic conditions of the society. Manifest justice is curable in nature rather than incurable and this court would lose its sanctity and thus would belie the expectations of the founding fathers that justice is above all. There is no manner of doubt that procedural law/procedural justice cannot overreach the concept of justice and in the event an Order stands out to create manifest injustice, would the same be allowed to remain in silenco so as to affect the parties perpetually or the concept of justice ought to activate the Court to find a way out to resolve the erroneous approach to the problem. Mr. Attorney General, with all the emphasis in his command, though principally agreed that justice of the situation needs to be looked into and relief be granted if so required but on the same breath submitted that the Court ought to be careful enough to trade on the path, otherwise the same will open up Pandora's box and thus, if at all, in rarest of the rare cases the further scrutiny may be made. While it is true that law courts has overburdened itself with the litigation and delay in disposal of matters in the subcontinent is not unknown and in the event of any further appraisal of the matter by this Court, it would brook on further delay resulting in consequences which are not far to see but that would by itself not in my view deter this Court from further appraisal of the matter in the event the same, however, deserve such an additional appraisal The note of caution sounded by Mr. Attorney as regards opening up of pandora's box strictly speaking, however, though may be of very practical in nature but the same apparently does not seem to go well with the concept of justice as adumbrated in our constitution. True it is, that practicability of the situation needs a serious consideration more so when this Court could do without it for more than 50 years, which by no stretch of imagination can be said to be a period not so short. I feel it necessary, however, to add that it is not that we are not concerned with the consequences of reopening of the issue but the redeeming feature of our justice delivery system, as is prevalent in the country, is adherence to proper and effective administration of justice

in stricto. In the event there is any affectation of such an administration of justice either by way of infraction of natural justice or an order being passed wholly without jurisdiction or affectation of public confidence as regards the doctrine of integrity in the justice delivery system technicality ought not to out-weigh the course of justice the same being the true effect of the doctrine of ex debito justitiae. The oft quoted statement of law of Lord Hewart, CJ in R v. Susssex Justices, ex p McCarthy (1924 (1) KB 256) that it is of fundamental importance that justice should not only be done, should manifestly and undoubtedly be seem to be done had this doctrine underlined and administered therein. In this context, the decision of the House of Lords in R v. Bow Street Metropolitan Stipendiary Magistrate and others, ex parte Pinochet Ugarte (No.2) seem to be an ipoc making decision, wherein public confidence on the judiciary is said to be the basic criteria of the justice delivery system any act or action even if it a passive one, if erodes or even likely to erode the ethics of judiciary, matter needs a further look. Brother Quadri has taken very great pains to formulate the steps to be taken and the methodology therefor, in the event of there being an infraction of the concept of justice, as such further dilation would be an unnecessary exercise which I wish to avoid since I have already recorded my concurrence therewith excepting, however, lastly that curative petitions ought to be treated as a rarity rather than regular and the appreciation of the Court shall have to be upon proper circumspection having regard to the three basic features of our justice delivery system to wit, the order being in contravention of the doctrine of natural justice or without jurisdiction or in the event of there is even a likelihood of public confidence being shaken by reason of the association or closeness of a judge with the subject matter in dispute. In my view, it is now time that procedural justice system should give way to the conceptual justice system and efforts of the law Court ought to be so directed. Gone are the days where implementation of draconian system of law or interpretation thereof were insisted upon - Flexibility of the law Courts presently are its greatest virtue and as such justice oriented approach is the need of the day to strive and forge ahead in the 21st century."

Thus, from the above said facts and the material on record, as the present industrial dispute stands on the same footing as of Sri Jagdish Chandra Nigam, so in view of the judgment passed Hon'ble Supreme Court in the case of Sri Jagdish Chandra Nigam thereafter in Review Petition and Curative Petition, by him which were also dismissed.

Accordingly, preliminary objection taken by learned counsel for respondent are allowed and claim petition filed by claimant liable to be dismissed.

ORDER

For the foregoing reasons the present industrial dispute is dismissed, workman is not entitled for any relief; and the reference is answered accordingly.

Lucknow. 21st June, 2024

Justice ANIL KUMAR Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2089.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **हिंदुस्तान ज़िंक** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री कैलाश** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भीलवाड़ा, पंचाट (रिफरेन्स न.- 20/2015)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था I

[सं. जेड-16025/04/2024-आईआर(एम)-134]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2089.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 20/2015)** of the **Central Government Industrial Tribunal cum Labour Court, Bhilwada** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Hindustan Zinc** and **Shri Kailash** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-134]

DILIP KUMAR, Under Secy.

अनुलग्नक

श्रम न्यायालय, भीलवाड़ा

पीठासीन अधिकारीः **श्री सशील कुमार शर्मा,** (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 20 सन् 2015

श्री कैलाश पुत्र. श्री गोपाल दरोगा, द्वारा– .

न्यू जिंक आदर्श कर्मचारी वेलफेयर यूनियन, .

सतपाल नगर, पो0–आगुचा, तह0–हुरडा, जिला–भीलवाडा।

.प्रार्थी

: **बनाम** :

प्रबंधक, हिन्दुस्तान जिंक लि., रामपुरा–आगुचा माईन्स, भीलवाडा। .

विपक्षी

उपस्थित :

श्री चितरंजन पांडे, अधिवक्ता–प्रार्थी की ओर से। .

श्री आर. सी. चेचाणी, अधिवक्ता–विपक्षी की ओर से।

:: **पंचाट** :: दिनांक : 13.08.2024

प्रार्थी श्रमिक ने विपक्षी के विरूद्ध सेवा पृथककरण बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया, जहां कोई समझौता नहीं होने के कारण सुलह अधिकारी द्वारा क्रमांकः F. No. AJ-5[26]/2014-ALC दिनांक 5.1.2015 को अपना विवाद इस न्यायालय के समक्ष पेश करने के निर्देश प्रार्थी को दिये गये। तत्पश्चात् प्रार्थी ने औद्योगिक विवाद अधिनियम 1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद इस न्यायालय के समक्ष पेश किया।

प्रार्थी की ओर से प्रस्तुत क्लेम प्रार्थना पत्र में यह अंकित किया गया है कि उसका चयन विपक्षी द्वारा खान अधि0 1952 के तहत चयन समिति द्वारा बतौर फीटर किया गया तथा उसने दिनाक 7.6.2007 से विपक्षी संस्थान में कार्य करना प्रारंभ किया। तत्पश्चात् उसे एम.एल.गुप्ता प्रा.लि0 कंपनी, आकृति कंपनी आदि कंपनियों के निर्देशन में कार्य हेतु स्थानांतरित किया गया। जहां उसनें 15.3.2012 तक काम किया। इसके बाद उसे दिनाक 16.3.2012 को सेवा पृथक कर दिया गया। अधि0 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। उसका इ. पी.एफ. नं0 आरजे/1272/739656 है। खान में कार्य करने हेतु ठेकेदार व अन्य कंपनियां अंतराल से बदलती रहती है। ठेकेदार केवल सुपरवाईर ही है, नियोजक नहीं है। मास्टर कंपनी ही नियोजक है। उसे यूनियन की सदस्यता ग्रहण करने के कारण द्वेषतावश दिनाक 16.3.2012 से कार्य पर नहीं लिया गया। प्रार्थी ने समस्त वेतन परिलाभों सहित पुनः सेवा में पुनः नियोजित करवाने का निवेदन किया।

विपक्षी की ओर से जवाब पेश कर जाहिर किया गया कि उन्होंने प्रार्थी को कभी भी नियोजित नहीं किया। प्रार्थी ने शांतिस्वरूप कन्स्ट्रक्शन कंपनी व धनसार कंपनी के निर्देशन में कार्य करना बताया है, लेकिन उक्त कंपनी मामले में पक्षकार नहीं है। केन्द्र सरकार ने प्रार्थी व विपक्षी के मध्य नियोजक एवं नियोजिती के संबंध नहीं मानकर पक्षकारों के मध्य कोई औद्योगिक विवाद अस्तित्व में होना नहीं माना है, जिसे प्रार्थी ने चुनौती नहीं दी है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की गई।

प्रार्थी की ओर से साक्ष्य में ए ड 1 कैलाश के शपथपत्र पर बयान दर्ज करवाये गये।

विपक्षी की ओर से कोई साक्ष्य पेश नहीं की गई।

बहस अंतिम सुनी गई। पत्रावली का ध्यानपूर्वक अवलोकन किया गया।

बहस के दौरान अधिवक्ता प्रार्थी ने क्लेम प्रार्थना पत्र में

उल्लेखित तथ्यों को दोहराते हुए वांछित अनुतोष दिलाने का निवेदन किया।

इसके विपरीत विपक्षी के अधिवक्ता ने यह बताया कि प्रार्थी उनका श्रमिक नहीं था। प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं।

हमनें संपूर्ण पत्रावली का अध्ययन किया और विचार किया।

सर्वप्रथम यहां यह देखना है कि क्या प्रार्थी व विपक्षी के मध्य श्रमिक– नियोजक के संबंध रहे हैं?

इस संबंध में न्यायिक दृष्टांत 2013 एल एल आर पेज 11 (पंजाब एंड हरियाणा) महिन्द्रा एंड महिन्द्रा बनाम पीठासीन अधिकारी उल्लेखनीय है, जिसमें मान. उच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि यदि कर्मचारी सीधे रूप से ठेकेदार के अधीन कार्य करता है तो उस पर संविदा श्रम (विनियमन एवं उत्सादन) अधि0, 1970 लागू होगा एवं श्रमिक व नियोजक के सबंध स्थापित करने का भार कर्मकार पर होगा।

इस संबंध में हस्तगत प्रकरण पर विचार करें तो प्रार्थी ने अपने क्लेम प्रार्थनापत्र में यह कहा है कि उसे विपक्षी द्वारा फीटर के पद पर चयनित कर नियोजन में रखा गया–तत्पश्चात् हिन्दुस्तान जिंक लि0 के निर्देशन में कार्य हेतु उसे स्थानांतरित किया गया। इसके बाद एम.एल.गुप्ता प्रा.लि0, आकृति कंपनी,जयहिंद प्रा.लि. कंपनी,सपना प्रा.लि. कंपनी के निर्देशन में कार्य हेतु स्थानांतरित किया गया। विपक्षी की ओर से की गई जिरह में गवाह ने यह स्पष्ट रूप से कहा है कि हिन्दुस्तान जिंक वाले प्रार्थनापत्र की पैरा सं0 एक में वर्णित कंपनियों में काम करने के लिए भेजते थे। इनके अलावा भी कई कंपनियों में हिन्दुस्तान जिंक हमें काम करने के लिए भेजती थी। आगे जिरह में प्रार्थी ने स्पष्ट रूप से कहा है कि उसके पास हिन्दुस्तान जिंक का कोई नियुक्तिपत्र नहीं है। इस प्रकार प्रार्थी अपने पास विपक्षी का कोई नियुक्ति पत्र, नहीं होना स्पष्ट रूप से स्वीकार करता है। प्रार्थी की ओर से विपक्षी के यहां अपने नियोजन को साबित करने के लिए स्वयं के शपथपत्र के अतिरिक्त अन्यकोई साक्ष्य पेश नहीं की गई है। दस्तावेजी साक्ष्य के रूप में प्रार्थी की ओर से प्रदर्श 1–ए अंशदायी भविष्य निधि लेखा की प्रतिं को अवश्य प्रदर्शित करवाया गया है, जो वर्ष 2008–2009 की अवधि की होकर सेवा पृथक की बताई जा रही तिथि 16.3.2012 से काफी समय पूर्व की अवधि का होने से उक्त दस्तावेज हस्तगत मामले में सुसंगत भी नहीं है। इसके अतिरिक्त प्रार्थी ने प्रदर्श 2 असफल वार्ता प्रतिवेदन को भी प्रदर्शित करवाया है, जिसमें भी प्रार्थी के द्वारा विपक्षी के अधीन नियोजित होकर काम करने का कोई अंकन नहीं है। ऐसी स्थिति में प्रार्थी द्वारा प्रस्तुत उक्त दस्तावेजों से प्रार्थी को कोई सहायता नहीं मिलती है।

प्रार्थी के द्वारा अपने क्लेम प्रार्थनापत्र में किये गये अभिवचनों के समर्थन में दस्तावेजी साक्ष्य के रूप में विपक्षी द्वारा जारी नियुक्तिपत्र, गेटपास, पे–स्लीप आदि कोई भी ऐसा दस्तावेज पेश नहीं किया है, जिससे उसके कथनों पर विश्वास किया जा सके। प्रार्थी को यदि विपक्षी हिन्दुस्तान जिंक द्वारा नियोजित किया गया होता तो उसके द्वारा नियुक्तिपत्र, पे–स्लीप या स्वयं के बैंक खाते की पासबुक आदि पेश कर यह साबित करवाया जा सकता था कि उसे विपक्षी द्वारा ही नियोजित किया गया है तथा वे ही उसे वेतन देते थे, लेकिन प्रार्थी की ओर से ऐसा कुछ भी नहीं किया गया है। ऐसी स्थिति में प्रार्थी द्वारा मात्र मौखिक रूप से यह कह देने से कि उसे विपक्षी हिन्दुस्तान जिंक ने नियोजित किया, को सत्य एवं विश्वसनीय नहीं माना जा सकता है। गौरतलब है कि स्वयं प्रार्थी ने अपने क्लेम प्रार्थना की मद सं0 एक में ही यह अंकित किया है कि उसे इसके बाद एम.एल.गुप्ता प्रा.लि0, आकृति कंपनी,जयहिंद प्रा.लि. कंपनी,सपना प्रा.लि. कंपनी के निर्देशन में कार्य हेतु स्थानांतरित किया गया, जिससे भी यह माना जा सकता है कि प्रार्थी ने उक्त ठेकेदार कंपनीं के अधीन व उनके निर्देशन में ही विपक्षी के यहां कुछ समय तक काम किया होगा, लेकिन प्रार्थी ने उसके द्वारा बताई जा रही लम्बी अवधि तक विपक्षी के नियोजन में कार्य किया हो और उसके पास नियोजन के संबध में कोई दस्तावेज नहीं हो, ऐसा संभव नहीं माना जा सकता है।

स्वयं प्रार्थी के अभिवचनो से ही यही प्रकट हो रहा है कि प्रार्थी ने अन्य ठेकेदार कंपनी– एम.एल.गुप्ता प्रा.लि0, आकृति कंपनी,जयहिंद प्रा.लि. कंपनी,सपना प्रा.लि. कंपनी के माध्यम से कुछ समय तक विपक्षी संस्थान में कार्य किया होगा तथा उसने सीधे तौर पर विपक्षी के अधीन कार्य किया हो, ऐसा साबित नहीं पाया जाता है। वेतन भुगतान के संबंध में यद्यपि प्रार्थी अपनी जिरह में यह कहता है कि उसे वेतन भुगतान विपक्षी के द्वारा किया जाता था, लेकिन इस संबंध में उसने लेशमात्र भी दस्तावेजी साक्ष्य –पे स्लीप, स्वयं के बैंक खाते की पास बुक आदि पेश नहीं की है। ऐसी स्थिति में प्रार्थी को विपक्षी के द्वारा सीधे तौर पर वेतन भुगतान किया जाना भी साबित नहीं पाया जाता है। प्रार्थी की ओर से विपक्षी संस्थान के सीधे नियंत्रण एवं पर्यवेक्षण में कार्य करने के संबंध में स्वयं की मौखिक साक्ष्य के अतिरिक्त कोई ठोस दस्तावेजी साक्ष्य भी प्रस्तुत नहीं की गई है। अतः प्रस्तुत साक्ष्य से प्रार्थी को विपक्षी के प्रत्यक्ष नियोजन में नियोजित होना नहीं माना जा सकता है। प्रार्थी द्वारा ऐसी कोई साक्ष्य पेश नहीं की गई है जिससे प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक का संबंध स्थापित होना प्रकट होता हो। ऐसी स्थिति में मेरे विनम्र मत में हस्तगत प्रकरण में न्यायिक दृष्टांत 2013 एल एल आर पेज 11 (पंजाब एंड हरियाणा) महिन्द्रा एंड महिन्द्रा बनाम पीठासीन अधिकारी पूर्णतः लागू होता है।

हस्तगत प्रकरण में न्यायिक दृष्टांत 2011 एल एल आर पेज 113 (एस.सी.) जनरल मैनेजर (ओ एस डी), बंगाल नागपुर कॉटन मिल्स, राजनांदगांव बनाम भरतलाल वगैरह उल्लेखनीय है, जिसमें मान0 उच्चतम न्यायालय ने यह अभिनिर्धारित किया है कि कर्मचारी तथा नियोक्ता के संबंध स्थापित होने के लिए यह आवश्यक है कि कर्मचारी न्यायालय में यह साबित करे कि उसे सीधे कंपनी से वेतन मिलता था, न कि ठेकेदार से, लेकिन हस्तगत प्रकरण में प्रार्थी ने ऐसा कोई सबूत पेश नहीं किया है जिससे यह साबित हो सके कि उसे विपक्षी से वेतन मिलता हो।

न्यायिक दृष्टांत 2014 एल एल आर पेज 753 (राज0)घीसा खां बनाम श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर वगैरह में मान0 उच्च न्यायालय ने यह अभिनिर्धारित किया है कि कर्मकार तथा नियोजक के मध्य कर्मकार–नियोजक का संबंध था, इस तथ्य को साबित करने का भार कर्मकार पर है। प्रार्थी की ओर से विपक्षी द्वारा जारी कोई नियुक्तिपत्र, पे–स्लीप आदि पेश नहीं की गई है, जिससे उसका विपक्षी से श्रमिक–नियोजक का संबंध स्थापित होना साबित होता हो। विचाराधीन मामले में प्रस्तुत साक्ष्य से प्रार्थी, विपक्षी से कर्मकार एवं नियोजक का संबंध स्थापित होना साबित करने में असफल रहा है।

हस्तगत प्रकरण में न्यायिक दृष्टांत 2018 एल एल आर पेज 515 भारत हेवी इलेक्ट्रीकल लि0 बनाम महेन्द्र प्रसाद व अन्य भी उल्लेखनीय है, जिसमें में मान0 उच्चतम न्यायालय ने यह अभिनिर्धारित किया है कि कर्मचारी तथा नियोक्ता का संबंध देखने के लिए 6 बातें होना आवश्यक है, जिसमें 1–कर्मचारी को कौन नियुक्त करता है, 2–कर्मचारी को वेतन आदि कौन देता है, 3–कर्मचारी को पदच्युत करने का अधिकार किसके पास है, 4– कर्मचारी के विरूद्ध अनुशासनात्मक कार्यवाही कौन कर सकता है, 5– सेवा की निरंतरता तथा 6–कर्मचारी पर नियंत्रण एवं पर्यवेक्षण कौन करता है।

उपर विवेचन के दौरान यह साबित माना गया है कि प्रार्थी को विपक्षी द्वारा न तो नियोजित किया गया, न उसे वेतन विपक्षी द्वारा दिया जाता था। अतः उक्त न्यायिक दृष्टांत 2018 एल एल आर पेज 515 भारत हेवी इलेक्ट्रीकल लि0 बनाम महेन्द्र प्रसाद व अन्य के परिपेक्ष्य में भी प्रार्थी व विपक्षीगण के मध्य श्रमिक–नियोजक का संबंध स्थापित होना नहीं माना जा सकता।

प्रार्थी ने नियोजन के संबंध में मात्र अंशदायी भविष्य निधि का लेखा प्रदर्श 1–ए की प्रतिं को अवश्य प्रदर्शित करवाया गया है, जो वर्ष 2008–2009 की अवधि की होकर सेवा पृथक की बताई जा रही तिथि 16.3.2012 से काफी समय पूर्व की अवधि का होने से उक्त दस्तावेज हस्तगत मामले में सुसंगत भी नहीं है। प्रार्थी ने उक्त दस्तावेजी साक्ष्य के अतिरिक्त अपने नियोजन के संबंध में अन्य कोई ठोस दस्तावेजी साक्ष्य पेश नहीं की है तथा मेरे मत में इस संबंध में मात्र प्रार्थी का शपथपत्र ही पर्याप्त नहीं है। ऐसी स्थिति में प्रार्थी का नियोजन अधि0 1947 की धारा 25–बी के तहत 'नियमित नियोजन' होना भी साबित नहीं माना जा सकता है।

इस संबंध में विपक्षी सं0 एक की ओर से प्रस्तुत न्यायिक दृष्टांत 2013 एल एल आर पेज 927 (इलाहाबाद) यू.पी.स्टेट वेअरहाउसिंग कार्पोरेशन वगैरह बनाम पीठासीन अधिकारी वगैरह उल्लेखनीय है, जिसमें मान. उच्च न्यायालय ने यह अभिनिर्धारित किया है कि विधि का यह सुस्थापित सिद्धांत है कि जो कर्मकार क्लेम पेश करता है उसी को अपना क्लेम साबित करना होता है और इस तथ्य को मौखिक एवं दस्तावेजी साक्ष्य से साबित किया जा सकता है, लेकिन प्रार्थी यह साबित करने में पूर्णतः असफल रहा है कि उसने सेवा पृथककरण की तिथि से पूर्व के कलैण्डर वर्ष में विपक्षी के नियमित श्रमिक के रूप में 240 दिन या इससे अधिक दिवसों तक कार्य किया। यदि उसने विपक्षी के अधीन कार्य किया है तो वह ठेकेदार के अधीन किया है। हस्तगत मामले में तो प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध होना ही साबित नहीं पाया गया है। ऐसी स्थिति में विपक्षी के द्वारा प्रार्थी को दिनांक 16.3.2012 से सेवा से पृथक करना संभव भी नहीं माना जा सकता है।

उपरोक्त विवेचन एवं प्रस्तुत न्यायिक दृष्टांतों के परिपेक्ष्य में प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध स्थापित नहीं रहे हैं तथा उसे विपक्षी के द्वारा दिनांक 16.3.2012 से सेवा से पृथक नहीं किया गया है। अतः वह कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

उक्त विवेचन के आधार पर आदेश दिया जाता है कि प्रार्थी श्री कैलाश व विपक्षी के मध्य श्रमिक– नियोजक के संबंध नहीं रहे हैं। प्रार्थी को विपक्षी ने दिनांक 16.3.2012 को सेवा से पृथक नहीं किया है। प्रार्थी विपक्षी से कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट आज दिनांक 13.08.2024 को खुले न्यायालय में सुनाया गया।

सुशील कुमार शर्मा, न्यायाधीश,

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2090.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **हिंदुस्तान ज़िंक** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री ओम पुरी** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भीलवाड़ा, पंचाट (रिफरेन्स न. 21/2015)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-27012/12/2015-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2090.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 21/2015)** of the **Central Government Industrial Tribunal cum Labour Court, Bhilwada** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Hindustan Zinc** and **Shri Om Puri** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-27012/12/2015-IR(M)]

DILIP KUMAR, Under Secy.

अनुलग्नक

:: श्रम न्यायालय, भीलवाड़ा ::

पीठासीन अधिकारीः **श्री सशील कुमार शर्मा,** (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 21 सन् 2015

श्री ओम पुरी पुत्र. श्री अर्जुन पुरी, द्वारा–

न्यू जिंक आदर्श कर्मचारी वेलफेयर यूनियन,

सतपाल नगर,पो0–आगुचा,तह0–हुरडा,जिला–भीलवाडा।

..प्रार्थी

: बनाम :

प्रबंधक,हिन्दुस्तान जिंक लि.,रामपुरा–आगुचामाईन्स, भीलवाडा।

..विपक्षी

उपस्थित :

श्री चितरंजन पांडे,अधिवक्ता–प्रार्थी की ओर से।

श्री आर.सी.चेचाणी,अधिवक्ता–विपक्षी की ओर से।

:: पंचाट :: दिनांक : 13.08.2024

प्रार्थी श्रमिक ने विपक्षी के विरूद्ध सेवा पृथककरण बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया, जहां कोई समझौता नहीं होने के कारण सुलह अधिकारी द्वारा दिनांक 5.1.2015 को अपना विवाद इस न्यायालय के समक्ष पेश करने के निर्देश प्रार्थी को दिये गये। तत्पश्चात् प्रार्थी ने औद्योगिक विवाद अधिनियम 1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद इस न्यायालय के समक्ष पेश किया।

तत्पश्चात् श्रम मंत्रालय,भारत सरकार ने आदेश क्रमांक –L-27012/12/2015-IR[M] दिनांक 8.4.2015 के द्वारा अग्रलिखित विवाद इस न्यायालय को अधिनिर्णयार्थ प्रेषित किया–

Whether the action of the management of M/s. Hindustan Zink Ltd.,Rampura Agucha Mines, Bhilwara in terminating the services of Sh.Om puri S/o Sh. Arjun Puri w.e.f.20.5.2011 is legal and justified? if not, what relief the workman is entitled to?

प्रार्थी की ओर से प्रस्तुत क्लेम प्रार्थना पत्र में यह अंकित किया गया है कि उसका चयन विपक्षी द्वारा खान अधि0,1952 के तहत चयन समिति द्वारा बतौर चौकीदार किया गया तथा उसने दिनाक 2.2.1989 से विपक्षी संस्थान में कार्य करना प्रारंभ किया। तत्पश्चात् उसे गोयल कन्स्ट्रक्शन कंपनी व इसके बाद एम.एल.गुप्ता कन्स्ट्रक्शन कं0 कंपनी के निर्देशन में कार्य हेतु स्थानांतरित किया गया। जहां उसनें 19.5.2011 तक काम किया। उसे दिनाक 20.5.2011 को सेवा पृथक कर दिया गया। अधि0 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। उसका इ.पी.एफ. नं0 आरजे/ 1272/1023714 है। खान में कार्य करने हेतु ठेकेदार व अन्य कंपनियां अंतराल से बदलती रहती है। ठेकेदार केवल सुपरवाईर ही है, नियोजक नहीं है। मास्टर कंपनी ही नियोजक है। उसे यूनियन की सदस्यता ग्रहण करने के कारण द्वेषतावश दिनाक 20.5.2011 से कार्य पर नहीं लिया गया। प्रार्थी ने समस्त वेतन परिलाभों सहित पुनः सेवा में पुनः नियोजित करवाने का निवेदन किया।

विपक्षी की ओर से जवाब पेश कर जाहिर किया गया कि उन्होंने प्रार्थी को कभी भी नियोजित नहीं किया। प्रार्थी ने शांतिस्वरूप कन्स्ट्रक्शन कंपनी व धनसार कंपनी के निर्देशन में कार्य करना बताया है, लेकिन उक्त कंपनी मामले में पक्षकार नहीं है। केन्द्र सरकार ने प्रार्थी व विपक्षी के मध्य नियोजक एवं नियोजिती के संबंध नहीं मानकर पक्षकारों के मध्य कोई औद्योगिक विवाद अस्तित्व में होना नहीं माना है, जिसे प्रार्थी ने चुनौती नहीं दी है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की गई।

प्रार्थी की ओर से साक्ष्य में ए ड 1 ओम पुरी के शपथपत्र पर बयान दर्ज करवाये गये।

विपक्षी की ओर से कोई साक्ष्य पेश नहीं की गई।

बहस अंतिम सुनी गई। पत्रावली का ध्यानपूर्वक अवलोकन किया गया।

बहस के दौरान अधिवक्ता प्रार्थी ने क्लेम प्रार्थना पत्र में उल्लेखित तथ्यों को दोहराते हुए वांछित अनुतोष दिलाने का निवेदन किया।

इसके विपरीत विपक्षी के अधिवक्ता ने यह बताया कि प्रार्थी उनका श्रमिक नहीं था। प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं।

हमनें संपूर्ण पत्रावली का अध्ययन किया और विचार किया।

सर्वप्रथम यहां यह देखना है कि क्या प्रार्थी व विपक्षी के मध्य श्रमिक– नियोजक के संबंध रहे हैं?

इस संबंध में न्यायिक दृष्टांत 2013 एल एल आर पेज 11 (पंजाब एंड हरियाणा) महिन्द्रा एंड महिन्द्रा बनाम पीठासीन अधिकारी उल्लेखनीय है, जिसमें मान. उच्च न्यायालय द्वारा यह अभिनिर्धारित किया गया है कि यदि कर्मचारी सीधे रूप से ठेकेदार के अधीन कार्य करता है तो उस पर संविदा श्रम (विनियमन एवं उत्सादन) अधि0, 1970 लागू होगा एवं श्रमिक व नियोजक के सबंध स्थापित करने का भार कर्मकार पर होगा।

इस संबंध में हस्तगत प्रकरण पर विचार करें तो प्रार्थी ने अपने क्लेम प्रार्थनापत्र में यह कहा है कि उसे विपक्षी द्वारा चौकीदार के पद पर चयनित कर नियोजन में रखा गया–तत्पश्चात् हिन्दुस्तान जिंक लि0 के निर्देशन में कार्य हेतु उसे स्थानांतरित किया गया। इसके बाद गोयल कन्स्ट्रक्शन कंपनी व इसके बाद एम.एल.गुप्ता कन्स्ट्रक्शन कं0 कंपनी के निर्देशन में कार्य करने के लिए स्थानांतरित किया गया। विपक्षी की ओर से की गई जिरह में गवाह ने यह स्पष्ट रूप से कहा है कि वह गोयल कन्स्ट्रक्शन कंपनी व एम.एल.गुप्ता कन्स्ट्रक्शन कं0 कंपनी को नहीं जानता है, उसे वेतन का भुगतान हिन्दुस्तान जिंक के द्वारा किया जाता था। गवाह ने जिरह में यह भी कहा है कि उसके पास हिन्दुस्तान जिंक का गेटपास व नियुक्ति पत्र नहीं है। इस प्रकार प्रार्थी अपने पास विपक्षी का कोई नियुक्ति पत्र व गेटपास नहीं होना स्पष्ट रूप से स्वीकार करता है। प्रार्थी की ओर से विपक्षी के यहां अपने नियोजन को साबित करने के लिए स्वयं के शपथपत्र के अतिरिक्त लेशमात्र भी दस्तावेजी साक्ष्य पेश नहीं की गई है। दस्तावेजी साक्ष्य के रूप में प्रार्थी की ओर से प्रदर्श 1 असफल वार्ता प्रतिवेदन व सुलह अधिकारी,अजमेर द्वारा जारी प्रदर्श 2,जो धारा 2–ए का प्रमाणपत्र है, को अवश्य प्रदर्शित करवाया गया है, जिनमें भी प्रार्थी द्वारा विपक्षी के अधीन नियोजित होकर काम करने का कोई अंकन नहीं है। ऐसी स्थिति में प्रार्थी द्वारा प्रस्तुत उक्त दस्तावेजात से भी प्रार्थी को कोई सहायता नहीं मिलती है।

प्रार्थी के द्वारा अपने क्लेम प्रार्थनापत्र में किये गये अभिवचनों के समर्थन में दस्तावेजी साक्ष्य के रूप में विपक्षी द्वारा जारी नियुक्तिपत्र, विपक्षी द्वारा जारी गेटपास या विपक्षी द्वारा जारी पे–स्लीप आदि कोई भी ऐसे दस्तावेज पेश नहीं किया है, जिससे उसके कथनों पर विश्वास किया जा सके। प्रार्थी को यदि विपक्षी हिन्दुस्तान जिंक द्वारा नियोजित किया गया होता तो उसके द्वारा पे–स्लीप या स्वयं के बैंक खाते की पासबुक आदि पेश कर यह साबित करवाया जा सकता था कि उसे विपक्षी द्वारा ही नियोजित किया गया है तथा वे ही उसे वेतन देते थे, लेकिन प्रार्थी की ओर से ऐसा कुछ भी नहीं किया गया है। ऐसी स्थिति में प्रार्थी द्वारा मात्र मौखिक रूप से यह कह देने से कि उसे विपक्षी हिन्दुस्तान जिंक ने नियोजित किया, को सत्य एवं विश्वसनीय नहीं माना जा सकता है। गौरतलब है कि स्वयं प्रार्थी ने अपने क्लेम प्रार्थना की मद सं0 एक में ही यह अंकित किया है कि उसे गोयल कन्स्ट्रक्शन कंपनी व बाद में एम.एल.गुप्ता कन्स्ट्रक्शन कं0 कंपनी के निर्देशन में कार्य हेतु स्थानांतरित किया गया, जिससे भी यह माना जा सकता है कि प्रार्थी ने उक्त ठेकेदार कंपनी के अधीन व उनके निर्देशन में ही विपक्षी के यहां कुछ समय तक काम किया होगा, लेकिन प्रार्थी ने उसके द्वारा बताई जा रही करीब 22 वर्ष की लम्बी अवधि तक विपक्षी के नियोजन में कार्य किया हो और उसके पास नियोजन के संबध में कोई दस्तावेज नहीं हो, ऐसा संभव नहीं माना जा सकता है।

स्वयं प्रार्थी के अभिवचनो से ही यही प्रकट हो रहा है कि प्रार्थी ने अन्य ठेकेदार कंपनियो–गोयल कन्स्ट्रक्शन कंपनी व एम.एल.गुप्ता कन्स्ट्रक्शन कं0 कंपनी के माध्यम से कुछ समय तक विपक्षी संस्थान में कार्य किया होगा तथा उसने सीधे तौर पर विपक्षी के अधीन कार्य किया हो, ऐसा साबित नहीं पाया जाता है। प्रार्थी को विपक्षी के द्वारा सीधे तौर पर वेतन भुगतान किया जाना भी साबित नहीं पाया जाता है। प्रार्थी की ओर से विपक्षी संस्थान के सीधे नियंत्रण एवं पर्यवेक्षण में कार्य करने के संबंध में स्वयं की मौखिक साक्ष्य के अतिरिक्त अन्य कोई दस्तावेजी साक्ष्य भी प्रस्तुत नहीं की है। अतः प्रस्तुत साक्ष्य से प्रार्थी को विपक्षी के प्रत्यक्ष नियोजन में नियोजित होना नहीं माना जा सकता है। प्रार्थी द्वारा ऐसी कोई साक्ष्य पेश नहीं की गई है जिससे प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक का संबंध स्थापित होना प्रकट होता हो । ऐसी स्थिति में मेरे विनम्र मत में हस्तगत प्रकरण में न्यायिक दृष्टांत 2013 एल एल आर पेज 11 (पंजाब एंड हरियाणा) महिन्द्रा एंड महिन्द्रा बनाम पीठासीन अधिकारी पूर्णतः लागू होता है।

हस्तगत प्रकरण में न्यायिक दृष्टांत 2011 एल एल आर पेज 113 (एस.सी.) जनरल मैनेजर (ओ एस डी), बंगाल नागपुर कॉटन मिल्स, राजनांदगांव बनाम भरतलाल वगैरह उल्लेखनीय है, जिसमें मान0 उच्चतम न्यायालय ने यह अभिनिर्धारित किया है कि कर्मचारी तथा नियोक्ता के संबंध स्थापित होने के लिए यह आवश्यक है कि कर्मचारी न्यायालय में यह साबित करे कि उसे सीधे कंपनी से वेतन मिलता था, न कि ठेकेदार से, लेकिन हस्तगत प्रकरण में प्रार्थी ने ऐसा कोई सबूत पेश नहीं किया है जिससे यह साबित हो सके कि उसे विपक्षी से वेतन मिलता हो।

न्यायिक दृष्टांत 2014 एल एल आर पेज 753 (राज0) घीसा खां बनाम श्रम न्यायालय एवं औद्योगिक न्यायाधिकरण, अजमेर वगैरह में मान0 उच्च न्यायालय ने यह अभिनिर्धारित किया है कि कर्मकार तथा नियोजक के मध्य कर्मकार–नियोजक का संबंध था, इस तथ्य को साबित करने का भार कर्मकार पर है। प्रार्थी की ओर से विपक्षी द्वारा जारी कोई नियुक्तिपत्र, पे–स्लीप आदि पेश नहीं की गई है, जिससे उसका विपक्षी से श्रमिक–नियोजक का संबंध स्थापित होना साबित होता हो। विचाराधीन मामले में प्रस्तुत साक्ष्य से प्रार्थी, विपक्षी से कर्मकार एवं नियोजक का संबंध स्थापित होना साबित करने में असफल रहा है।

हस्तगत प्रकरण में न्यायिक दृष्टांत 2018 एल एल आर पेज 515 भारत हेवी इलेक्ट्रीकल लि0 बनाम महेन्द्र प्रसाद व अन्य भी उल्लेखनीय है, जिसमें में मान0 उच्चतम न्यायालय ने यह अभिनिर्धारित किया है कि कर्मचारी तथा नियोक्ता का संबंध देखने के लिए 6 बातें होना आवश्यक है, जिसमें 1–कर्मचारी को कौन नियुक्त करता है, 2–कर्मचारी को वेतन आदि कौन देता है, 3–कर्मचारी को पदच्युत करने का अधिकार किसके पास है, 4–कर्मचारी के विरूद्ध अनुशासनात्मक कार्यवाही कौन कर सकता है, 5– सेवा की निरंतरता तथा 6–कर्मचारी पर नियंत्रण एवं पर्यवेक्षण कौन करता है।

विवेचन के दौरान यह साबित माना गया है कि प्रार्थी को विपक्षी द्वारा न तो नियोजित किया गया, न उसे वेतन विपक्षी द्वारा दिया जाता था। अतः उक्त न्यायिक दृष्टांत 2018 एल एल आर पेज 515 भारत हेवी इलेक्ट्रीकल लि0 बनाम महेन्द्र प्रसाद व अन्य के परिपेक्ष्य में भी प्रार्थी व विपक्षीगण के मध्य श्रमिक–नियोजक का संबंध स्थापित होना नहीं माना जा सकता।

प्रार्थी ने नियोजन के संबंध में लेशमात्र भी दस्तावेजी साक्ष्य पेश नहीं की है तथा मेरे मत में इस संबंध में मात्र प्रार्थी का शपथपत्र ही पर्याप्त नहीं है। ऐसी स्थिति में प्रार्थी का नियोजन अधि0 1947 की धारा 25–बी के तहत 'नियमित नियोजन' होना भी साबित नहीं माना जा सकता है।

इस संबंध में विपक्षी सं0 एक की ओर से प्रस्तुत न्यायिक दृष्टांत 2013 एल एल आर पेज 927 (इलाहाबाद) यू.पी.स्टेट

वेअरहाउसिंग कार्पोरेशन वगैरह बनाम पीठासीन अधिकारी वगैरह उल्लेखनीय है, जिसमें मान. उच्च न्यायालय ने यह अभिनिर्धारित किया है कि विधि का यह सुस्थापित सिद्धांत है कि जो कर्मकार क्लेम पेश करता है उसी को अपना क्लेम साबित करना होता है और इस तथ्य को मौखिक एवं दस्तावेजी साक्ष्य से साबित किया जा सकता है, लेकिन प्रार्थी यह साबित करने में पूर्णतः असफल रहा है कि उसने सेवा पृथककरण की तिथि से पूर्व के कलैण्डर वर्ष में विपक्षी के नियमित श्रमिक के रूप में 240 दिन या इससे अधिक दिवसों तक कार्य किया। यदि उसने विपक्षी के अधीन कार्य किया है तो वह ठेकेदार के अधीन किया है। हस्तगत मामले में तो प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध होना ही साबित नहीं पाया गया है। ऐसी स्थिति में विपक्षी के द्वारा प्रार्थी को दिनांक 20.5.2011 से सेवा से पृथक करना संभव भी नहीं माना जा सकता है।

उपरोक्त विवेचन एवं प्रस्तुत न्यायिक दृष्टांतों के परिपेक्ष्य में प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध स्थापित नहीं रहे हैं तथा उसे विपक्षी के द्वारा दिनांक 20.5.2011 से सेवा से पृथक नहीं किया गया है। अतः वह कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः केन्द्र सरकार द्वारा प्रेषित विवाद का उत्तर इस प्रकार दिया जाता है कि–

अतः यह आदेश दिया जाता है कि प्रार्थी श्री ओम पुरी व विपक्षी के मध्य श्रमिक– नियोजक के संबंध नहीं रहे हैं। प्रार्थी को विपक्षी ने दिनांक 20.5.2011 को सेवा से पृथक नहीं किया है। प्रार्थी विपक्षी से कोई राहत प्राप्त करने का अधिकारी नहीं है।

पंचाट आज दिनांक 13.08.2024 को खुले न्यायालय में सुनाया गया।

सुशील कुमार शर्मा, न्यायाधीश,

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2091.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **अल्ट्राटेक सीमेंट मेसर्स आदित्य सीमेंट वर्क्स; मेसर्स जगदीश ट्रेंडिंग कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **सीमेंट वर्क्स एम्प्लाइज यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भीलवाड़ा, पंचाट (रिफरेन्स न. 10/2016)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-29012/23/2016-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2091.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 10/2016)** of the **Central Government Industrial Tribunal cum Labour Court, Bhilwada** as shown in the Annexure, in the Industrial dispute between the employers in relation to **UltraTech Cement M/s Aditya Cement Works; M/s Jagdish Trading Company Limited** and

Cement Works Employees Union which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-29012/23/2016-IR(M)]

DILIP KUMAR, Under Secy.

अनुलग्नक

:: श्रम न्यायालय, भीलवाड़ा ::

पीठासीन अधिकारीः **श्री सुशील कुमार शर्मा,** (जिला न्यायाधीश संवर्ग).

प्रकरण संख्या : 10 सन् 2016 एल सी आर

महामंत्री, सीमेंट वर्क्स एम्पलाईज यूनियन, .

अनुराग सदन, चंदेरिया, जिला– चितौडगढ।

..प्रार्थी

: बनाम :

1. प्रबंधक, अल्ट्राटेक सीमेंट, मै0 आदित्य सीमेंट वर्क्स, . .
   सावा–शंभूपुरा, जिला–चितौडगढ।
2. मै0 जगदीश ट्रेडिग कंपनी लि0, द्वारा–अल्ट्राटेक अल्ट सीमेंट, . .
. मै0 आदित्य सीमेंट वर्क्स, सावा–शंभूपुरा, जिला–चितौडगढ। . .

..विपक्षीगण

उपस्थित :

श्री पी.एल. श्रीमाली, अधिवक्ता–प्रार्थी यूनियन की ओर से। .

श्री आर.एस.चौहान, अधिवक्ता–विपक्षीगण की ओर से।. .

:: पंचाट :: दिनांक 4.9.2024

प्रार्थीगण को सेवा पृथक किये जाने के संबंध में भारत सरकार की अधिसूचना संख्याः एल–29012/23/2016–आईआर (एम) दिनांक 13.6.2016 के द्वारा अग्रलिखित विवाद इस न्यायालय को प्रेषित किया गया–

'क्या प्रबंधक, अल्ट्राटेक सीमेंट, मै0 आदित्य सीमेंट वर्क्स, सावा–शंभूपुरा,जिला–चितौड के ठेकेदार मै0 जगदीश ट्रेडिंग कं0लि0 द्वारा ठेका श्रमिकगण (सर्व श्री नारायण लाल पुत्र श्री फउलाल एवं अन्य 101 श्रमिकगण (अनुलग्न सूची)) को मई 2014 से नौकरी से हटाये जाने की कार्यवाही वैध एवं न्यायोचित है? यदि नहीं, तो प्रार्थीगण किस राहत के व कब से पाने के हकदार हैं?'

विवाद प्राप्त होने पर पक्षकारों को नोटिस जारी कर तलब किया गया।

प्रार्थी यूनियन की ओर से क्लेम प्रार्थना पत्र प्रस्तुत कर जाहिर किया गया कि यूनियन के सदस्य श्रमिकगण से संबंधित मांग बाबत रेफरेन्स वर्ष 2011 से इस न्यायालय में लम्बित थे। विपक्षीगण द्वारा यूनियन के सदस्य श्रमिकों को समझौते के लिए प्रेरित कर एरियर राशि देने का आश्वासन देकर श्रमिकों को इस न्यायालय में उपस्थित कर राजीनामे के दस्तावेज तैयार करने के नाम पर तीन–चार कागजों पर हस्ताक्षर करवा कर राजीनामा इस न्यायालय में पेश करवा दिया। श्रमिकगण ने विपक्षीगण पर विश्वास कर हस्ताक्षर कर दिये। एरियर राशि के चैक प्राप्त करने के बाद श्रमिकगण कार्य पर उपस्थित हुए तो उन्हें काम पर लेने से मना कर दिया गया। राजीनामे में श्रमिकों को मुगालते में रखकर विपक्षीगण ने षडयंत्र पूर्वक स्वैच्छा से त्यागपत्र देने और ग्रेच्युटी व अन्य देय राशि के चैक प्राप्त कर लेना लिखकर धोखे से हस्ताक्षर करवा लिये और यूनियन के 102 सदस्यों की सेवाएं समाप्त कर दी गई। प्रार्थी यूनियन ने श्रमिकगण को समस्त वेतन परिलाभों सहित पुनः पूर्व पद पर नियोजित करवाने की प्रार्थना की।

विपक्षी सं0 एक की ओर से प्रस्तुत जवाब में 'प्रारंभिक आपत्तियां' के रूप में यह अंकित किया गया कि प्रार्थी यूनियन विवाद उठाने के लिए सक्षम एवं अधिकृत नहीं है। संस्थान का कोई भी श्रमिक प्रार्थी यूनियन का सदस्य नहीं है। अतिरिक्त रजिस्ट्रार ऑफ ट्रेड यूनियन द्वारा प्रार्थी यूनियन को निर्देशित किया गया है कि वे अपना कार्य क्षेत्र चंदेरिया को छोडकर अन्य किसी क्षेत्र में विवाद नहीं उठाए। इस संबंध में प्रार्थी यूनियन ने मान0 उच्च न्यायालय में अपील भी पेश की, जो खारिज की

जा चुकी है। अतः प्रार्थी यूनियन को विपक्षी संस्थान के श्रमिकों के संदर्भ में विवाद उठाने का अधिकार नहीं है। प्रार्थनापत्र के साथ संलग्न सूची में वर्णित श्रमिक उत्तरदाता के नियोजन में नहीं रहे हैं। प्रार्थी यूनियन के सदस्य श्रमिकों द्वारा इस न्यायालय के समक्ष उपस्थित होकर स्वैच्छा से प्रार्थनापत्र प्रस्तुत कर अपने प्रकरण को लोक अदालत की भावना से प्रेरित होकर राजीनामा प्रस्तुत कर विड्रा कर लिया गया है तथा विपक्षी सं0 दो से संपूर्ण भुगतान प्राप्त कर लिया है, जिससे स्पष्ट है कि वे उत्तरदाता के श्रमिक नहीं होकर विपक्षी सं0 दो के श्रमिक हैं। श्रमिकों द्वारा विपक्षी सं0 दो ठेकेदार द्वारा प्रसारित स्वेच्छिक सेवानिवृति योजना, 2014 का लाभ उठाते हुए अपना त्यागपत्र प्रस्तुत कर संपूर्ण हिसाब प्राप्त किया गया है। 'कलमवार' जवाब देते हुए जाहिर किया गया कि विवाद में जिन श्रमिकों का उल्लेख किया गया है उनमें से कोई भी श्रमिक उत्तरदाता के संस्थान में कार्यरत नहीं है तथा उनके व श्रमिकों के मध्य नियोजिती–नियोजक के संबंध नहीं है। उत्तरदाता मात्र प्रिंसीपल एम्पलॉयर है तथा विपक्षी सं0 दो ठेकेदार के द्वारा ही इन श्रमिकों को नियोजित किया गया है। इसी कारण से रेफरेन्स में इन श्रमिकों को विपक्षी सं0 दो द्वारा हटाये जाने का उल्लेख है। श्रमिकों पर कोन्ट्रेक्ट लेबर (रेगुलेशन एंड एबोलिशन) एक्ट, 1970 के प्रावधान लागू होते हैं अतः वे इस न्यायालय से कोई राहत प्राप्त नहीं कर सकते हैं। उत्तरदाता के किसी अधिकारी ने वर्ष 2011 में लम्बित प्रकरणों के संदर्भमें श्रमिकों को प्रलोभन देकर समझौता करने के लिए प्रेरित नहीं किया गया। क्लेम प्रार्थना पत्र निरस्त करने की प्रार्थना की गई।

विपक्षी सं0 दो की ओर से क्लेम प्रार्थनापत्र का जवाब प्रस्तुत कर 'प्रारंभिक आपत्तियां' के मद में विपक्षी सं0 एक द्वारा प्रार्थी यूनियन के सबंध में ली गई आपत्तियों को हुबहू दोहराते हुए जाहिर किया कि प्रार्थी यूनियन को विवाद उठाने का अधिकार नहीं है तथा श्रमिकों ने उत्तरदाता से समझौता कर संपूर्ण हिसाब प्राप्त कर इस न्यायालय के समक्ष उपस्थित होकर राजीनामा प्रस्तुत कर प्रकरण विड्रा कर लिया है। सभी श्रमिक उत्तरदाता के ही श्रमिक हैं तथा श्रमिकों व विपक्षी सं0 एक के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं। उत्तरदाता के द्वारा प्रसारित स्वेच्छिक सेवानिवृति योजना का लाभ उठाते हुए श्रमिकों ने इस न्यायालय के समक्ष उपस्थित होकर लोक अदालत की भावना से उत्तरदाता के समक्ष त्यागपत्र प्रस्तुत कर तय शुदा राशि बतौर संपूर्ण हिसाब प्राप्त कर ली है। प्रकरणों को राजीनामे के आधार पर इस न्यायालय द्वारा विधि अनुसार निस्तारित किया गया है। विपक्षी सं0 एक ने श्रमिकों को नियोजित नहीं किया है। स्वेच्छिक सेवानिवृति योजना में भाग लेने के बाद नियोजक एवं नियोजिती के संबंध समाप्त हो जाते हैं एवं इस तरह के श्रमिक अधि0, 1947 के तहत श्रमिक की तारीफ में नहीं आते हैं। कलमवार जवाब के मद में जाहिर किया गया कि प्रस्तुत रेफरेन्स से ही स्पष्ट है कि श्रमिक के विपक्षी सं0 एक प्रिंसीपल एम्पलॉयर हैं तथा उत्तरदाता ने ही इन्हें नियोजित किया है। श्रमिकगण कोन्ट्रेक्ट लेबर (रेगुलेशन एंड एबोलिशन) एक्ट, 1970 से शासित होने से वे अधि0 1947 के तहत लाभ प्राप्त नहीं कर सकते हैं। लंबित प्रकरणों में इस न्यायालय द्वारा पारित पंचाट के विरूद्ध किसी तरह की कोई रिट याचिका पेश नहीं किये जाने से इस न्यायालय द्वारा पारित पंचाट अंतिम हैं। प्रार्थीगण ने अपने अधिवक्ता की उपस्थिति में राजीनामे पर हस्ताक्षर किये हैं। क्लेम प्रार्थनापत्र निरस्त करने की प्रार्थना की गई ।

प्रार्थी यूनियन की ओर से साक्ष्य में एड 1 कालूराम, ए ड 2 रामलाल व ए ड 3 देवी सिंह के शपथपत्र पर बयान दर्ज करवाये गये ।

विपक्षी सं0 एक की ओर से साक्ष्य में एन ए ड 1 मुकेश कुमार के व विपक्षी सं0 दो की ओर से अजय सिंघवी के शपथपत्र पर बयान दर्ज करवाये गये ।

हमनें दोनों पक्षों को सुना एवं संपूर्ण पत्रावली का अध्ययन किया। विपक्षीगण की ओर से लिखित बहस भी पेश की गई।

बहस के दौरान प्रार्थी यूनियन के अधिवक्ता ने प्रार्थना पत्र में उल्लेखित तथ्यों को दोहराते हुए वाछित अनुतोष प्रदान किये जाने का निवेदन किया। इसके विपरीत विपक्षीगण के अधिवक्ता ने भी बहस के दौरान उनके अभिवचनों में उल्लेखित तथ्यों को दोहराते हुए क्लेम प्रार्थनापत्र खारिज करने की प्रार्थना की।

प्रार्थी यूनियन ने उनके सदस्य श्रमिकगण का नियोजन विपक्षीगण के यहां होना बताया है। विपक्षी सं0 एक ने भी अपने जवाब में कहा कि श्रमिकगण उत्तरदाता के नियोजन में नहीं रहे हैं, वे विपक्षी सं0 दो के श्रमिक थे। सभी श्रमिकगण ने इस न्यायालय के समक्ष उपस्थित होकर स्वैच्छा से प्रार्थनापत्र प्रस्तुत कर अपने प्रकरण को लोक अदालत की भावना से प्रेरित होकर राजीनामा प्रस्तुत कर विड्रा कर लिया तथा विपक्षी सं0 दो से संपूर्ण भुगतान भी प्राप्त कर लिया है। विपक्षी सं0 दो जगदीश ट्रेडिंग कं0 ने भी विपक्षी सं0 एक के कथनो को अपने जवाब में स्वीकार करते हुए सभी श्रमिकगण का उनके यहां नियोजित होने व इस न्यायालय के समक्ष स्वेच्छा से उपस्थित होकर राजीनामा प्रस्तुत कर प्रकरण विड्रा कर लेना कहा है। इस तथ्य को स्वयं प्रार्थी यूनियन के महामंत्री एड 1 कालूराम ने अपनी जिरह में भी स्वीकार किया है तथा यह कहा है कि यह सही है कि प्रार्थीगण जगदीश ट्रेडिंग कं0 के श्रमिक है, सभी श्रमिकगण कोर्ट में उपस्थित हुए थे, चैक का भुगतान उनके खाते में जमा हुआ था। जिरह में यह गवाह किस– किस दस्तावेज पर हस्ताक्षर कराये गये, इसकी जानकारी नहीं होना व इसकी कहीं शिकायत नहीं करना भी अपनी जिरह में स्वीकार करता है। गवाह ने भुगतान उनके खाते में जमा होना भी स्वीकार किया है। इस प्रकार प्रार्थी यूनियन के महामंत्री कालूराम की उक्त साक्ष्य से ही यह तो जाहिर होता है कि श्रमिकगण विपक्षी सं0 दो जगदीश ट्रेडिंग कंपनी के श्रमिक थे तथा सभी श्रमिकगण ने न्यायालय के समक्ष उपस्थित होकर चैक के जरिये राशि भी प्राप्त कर ली थी। हालांकि यूनियन का यह गवाह इस तथ्य से इनकार करता है कि मु.नं. 3 लगायत 127 का संपूर्ण हिसाब प्राप्त कर लिया हो,बल्कि यह गवाह एरियर राशि प्राप्त करना कहता है।

इसी तरह प्रार्थी यूनियन का दूसरा गवाह ए ड 2 रामलाल भी जगदीश ट्रेडिंग कंपनी से स्वेच्छा से इस्तीफा देना, सेवामुक्ति का संपूर्ण हिसाब प्राप्त कर लेना, इस न्यायालय में राजीनामा पेश करना व संपूर्ण राशि प्राप्त कर लेने से अपनी

जिरह में इनकार करता है, लेकिन यह गवाह इस न्यायालय के निर्णय की जानकारी होना व विपक्षी जगदीश ट्रेडिंग कंपनी से इस न्यायालय में चैक प्राप्त हुआ उसका भुगतान राजीखुशी प्राप्त कर लेना व इस न्यायालय के आदेश के विरूद्ध कोई रिट याचिका पेश नहीं करना भी अपनी जिरह में स्वीकार करता है। इस गवाह ने प्रदर्श एम 69 उसका स्वयं का शपथपत्र होना व इस पर उसके हस्ताक्षर होना भी स्वीकार किया है। इस प्रकार यह गवाह भी विपक्षी जगदीश ट्रेडिंग कंपनी से स्वेच्छा से चैक स्वेच्छा से प्राप्त कर भुगतान प्राप्त कर लेना व प्रदर्श एम 69 उसका स्वयं का शपथपत्र होना स्वीकार करता है। इसी तरह प्रार्थी यूनियन का गवाह ए ड 3 देवीसिंह भी अपनी जिरह में भीलवाडा न्यायालय में उसे चैक मिलना, चैक का भुगतान प्राप्त कर लेना,भीलवाडा में जो समझौताहुआ उसका चैक कोर्ट के सामने प्राप्त करना स्पष्ट रूप से स्वीकार करता है। इस प्रकार प्रार्थी यूनियन के उक्त गवाहान न्यायालय के समक्ष स्वेच्छा से न्यायालय के सामने चैक प्राप्त करना व उसका भुगतान प्राप्त कर लेना स्वीकार करते हैं।

इस संबंध में विपक्षी गवाह एन ए ड 1 मुकेश ने भी अपनी जिरह में कहा है कि दिनाक 2.5.2014 को इस न्यायालय में प्रस्तुत राजीनामो के समय वह मौजूद नहीं था, बल्कि संस्थानके अन्य अधिकारी मौजूद थे। इस गवाह के कथनों में कोई विपरीत तथ्य सामने नहीं आयाहै। श्रमिकगण का इस न्यायालय में उपस्थित होना व स्वेच्छा से चैक प्राप्त कर भुगतान प्राप्त कर लेना स्वयं प्रार्थी यूनियन के गवाहान ने ही अपनी जिरह में स्वीकार कियाहै। विपक्षी सं0 2 जगदीश ट्रेडिंग कंपनी के गवाह एन ए ड 2 अजय सिंघवी ने भी अपनी जिरह में श्रमिकगण के एरियर संबंधी मुकदमे नहीं चलना व एरियर की कोई राशि बकाया नहीं होना कहा है तथा यह भी कहा कि करीब 120–125 श्रमिकों ने वी.आर.एस. लिया था, वी.आर.एस. आवेदन प्राप्त होने के बाद श्रमिकों से त्यागपत्र, फुल एंड फाईनल भुगतान, ग्रेच्युटी फार्म आदि कुल 4–5 पृष्ठों पर हस्ताक्षर करवाये थे। समस्त हस्ताक्षर इस न्यायालय के समक्ष करवाये थे। इस गवाह की साक्ष्य में भी कोई विपरीत तथ्य सामने नहीं आया है।

उक्त समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यह स्पष्ट होता है कि प्रार्थी यूनियन के सदस्यगण ने इस न्यायालय के समक्ष उपस्थित होकर स्वेच्छा से उनके प्रकरणों में राजीनामा कर न्यायालय के सामने चैक प्राप्त किये। विपक्षीगण के कथनों की पुष्टि पत्रावली में उपलब्ध दस्तावेज प्रदर्श एम 3 लगायत प्रदर्श एम 75 से भी होती है। जिनके द्वारा प्रार्थी यूनियन के सदस्य श्रमिकगण द्वारा अपने–अपने त्यागपत्र व आवेदन विपक्षी सं0 दो जगदीश ट्रेडिंग कंपनी को प्रस्तुत किये गये। इस संबंध में पक्षकारों के मध्य अधिक विवाद भी नहीं है क्योंकि न्यायालय के समक्ष प्रार्थी यूनियन के सदस्यगण का उपस्थित होकर चैक प्राप्त कर भुगतान प्राप्त करना स्वयं प्रार्थी यूनियन की साक्ष्य से ही स्पष्ट है। इस प्रकार स्वैच्छा से न्यायालय के समक्ष उपस्थित होकर चैक प्राप्त कर उसका भुगतान प्राप्त कर लेना तो एक स्वीकृत तथ्य है। अतः इस संबंध में अधिक विवेचन की आवश्यकता नहीं है।

वकील प्रार्थी का मुख्य तर्क यह रहा है कि प्रार्थीगण को धोखे में रख कर दस्तखत करवाये गये हैं उन्होंने स्वेच्छा से राजीनामा पेश नहीं किया है, लेकिन मैं वकील प्रार्थी के उक्त तर्क से सहमत नहीं हूं क्योंकि जैसाकि विवेचन के दौरान माना जा चुका है कि प्रार्थीगण ने स्वेच्छा से न्यायालय के समक्ष उपस्थित होकर न्यायालय में राजीनामा पेश कर संपूर्ण हिसाब का चैक प्राप्त कर उसका भुगतान भी प्राप्त कर लिया है। इस तथ्य को स्वयं प्राथी यूनियन के गवाहान ए ड 2 व ए ड 3 ने भी अपनी जिरह में स्वीकार किया है। प्रार्थी यूनियन की साक्ष्य से यह भी स्पष्ट हुआ है कि उन्होंने इस न्यायालय के समक्ष या अन्य कहीं ऐसी कोई शिकायत नहीं की कि उन्होंने राजीनामा स्वेच्छा से नहीं किया हो। समग्र साक्ष्य के अवलोकन एवं विश्लेषण से यह पाया गया है कि प्रार्थी यूनियन के सदस्यगण ने विपक्षी सं0 दो जगदीश ट्रेडिग कंपनी के समक्ष स्वेच्छा से त्यागपत्र पेश किया है। गौरतलब है कि आदेश 23 नियम 3–ए सी.पी.सी. के तहत राजीनामे के आधार पर पारित डिक्री को अलग से दावा पेश करके चुनौती नहीं दी जा सकती है। श्री सूर्या डेवलेपर्स एंड प्रोमोटर्स बनाम एन शैलेश प्रसाद वाले मामले के अनुसार भी राजीनामे के आधार पर डिक्री को पृथक वाद में चुनौती नहीं दी जा सकती है।

मान0 उच्चतम न्यायालय ने भी न्यायिक दृष्टांत 2011 एल एल आर पेज 1009 मान सिंह बनाम मारूति सुजुकी इडिया लि0 व अन्य में यह प्रतिपादित किया है कि श्रमिक ने स्वैच्छिक सेवानिवृति योजना के तहत संपूर्ण बकाया राशिका विकल्प चुनास है औरस्वीकार कर लिया है और बाद में वह अवैधानिक सेवा पृथककरण के रूप में चुनौती देना चाहता है तो उसे वी.आर.एस. के तहत स्वीकार की गई और प्राप्त की गई राशि वापस करनी होगी। उक्त न्यायिक दृष्टांत हस्तगत मामले में पूर्णतः लागू होता है। उक्त न्यायिक दृष्टांत के परिपेक्ष्य में भी प्रार्थी यूनियन के सदस्यगण कोई राहत प्राप्त नहीं कर सकते हैं।

मामले में प्रार्थी यूनियन की ओर से प्रस्तुत दस्तावेजात– प्रदर्श 2 लगायत प्रदर्श 12 राज्य सरकार द्वारा पूर्व में पेषित अधिसूचना, प्रदर्श 14 लगायत प्रदर्श 19 पूर्व में इस न्यायालय को प्रेषित रेफरेन्स में संबंधित प्रार्थी की ओर से प्रस्तुत क्लेम प्रार्थनापत्र की प्रतियां, प्रदर्श 20 केन्द्र सरकार द्वारा जयपुर स्थित केन्द्रीय न्यायाधिकरण को प्रेषित रेफरेन्स की प्रति, प्रदर्श 22 जयपुर स्थित केन्द्रीय न्यायाधिकरण की आदेशिकाओं की प्रति है, जिस संबंध में विपक्षी ने असहमति व्यक्त नहीं की है तथा प्रस्तुत दस्तावेजात स्वीकृत दस्तावेज हैं। अतः इनके संबंध में विवेचन की आवश्यकता नहीं है तथा वे मामले में सुसंगत भी नहीं है क्योंकि हस्तगत मामले में तो यह साबित पाया गया है कि प्रार्थी यूनियन के सदस्यगण ने स्वैच्छा से संपूर्ण हिसाब प्राप्त कर विपक्षी सं0 दो के समक्ष अपने–अपने त्यागपत्र प्रस्तुत कर स्वैच्छा से सेवाओं का परित्याग किया है।

उक्त समग्र विवेचन से यह पाया जाता हैं कि प्रार्थी यूनियन के सदस्य श्रमिकों द्वारा स्वेच्छा से विपक्षी सं0 दो के समक्ष त्यागपत्र प्रस्तुत किया गया– तत्पश्चात् अपना संपूर्ण हिसाब भी प्राप्त कर स्वेच्छा से सेवाओं का परित्याग किया गया है। ऐसी स्थिति में विपक्षीगण द्वारा उन्हें सेवा से हटाने के संबंध में की गई कार्यवाही को अवैध एवं अनुचित नहीं कहा जा सकता है। अतः प्रार्थी यूनियन के सदस्य श्रमिकगण विपक्षीगण से कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

अतः भारत सरकार द्वारा प्रेषित विवाद का उत्तर इस प्रकार दिया जाता है–

प्रबंधक, अल्ट्राटेक सीमेंट,मै0 आदित्य सीमेंट वर्क्स, सावा–शंभूपुरा, जिला–चितौड के ठेकेदार मै0 जगदीश ट्रेडिंग कं0लि0 द्वारा ठेका श्रमिकगण (सर्व श्री नारायण लाल पुत्र श्री फउलाल एवं अन्य 101 श्रमिकगण को मई 2014 से नौकरी से हटाये जाने की कार्यवाही वैध एवं न्यायोचित है।

प्रार्थीगण किसी राहत का पाने के हकदार नहीं हैं।

पंचाट की प्रति भारत सरकार को प्रकाशनार्थ भेजी जाये।

पंचाट आज दिनांक 4.9.2024 को खुले न्यायालय में सुनाया गया।

सुशील कुमार शर्मा, न्यायाधीश

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2092.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **हिंदुस्तान ज़िंक** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री चांदमल, नई जिंक आदर्श कर्मचारी वेलफेयर यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भीलवाड़ा, पंचाट (रिफरेन्स न. 22/2015)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-27012/15/2015-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2092.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 22/2015)** of the **Central Government Industrial Tribunal cum Labour Court, Bhilwada** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Hindustan Zinc** and **Shri Chandmal Through New Zinc Adarsh Employees Welfare Union** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-27012/15/2015-IR(M)]

DILIP KUMAR, Under Secy.

अनुलग्नक

:: श्रम न्यायालय, भीलवाड़ा ::

पीठासीन अधिकारीः **श्री सुशील कुमार शर्मा,** (जिला न्यायाधीश संवर्ग)

प्रकरण संख्या : 22 सन् 2015

श्री चांदमल पुत्र. श्री रामकिशन खाती, (मृतक) के बजाय– .

1.श्रीमती प्रेम देवी पत्नी चांदमल

2.श्री ओम प्रकाश पुत्र श्री चांदमल .

3.श्री नानू पुत्री चांदमल .

4.नीतू पुत्री चांदमल

5.शांति पुत्री चांदमल .

निवासीयान–ईटरिया, तह0–फुलियाकला, जिला–शाहपुरा।.

द्वारा– न्यू जिंक आदर्श कर्मचारी वेलफेयर यूनियन, .

सतपाल नगर, पो0–आगुचा, तह0–हुरडा, जिला–भीलवाडा।

..प्रार्थीगण

: **बनाम** :

प्रबंधक, हिन्दुस्तान जिंक लि., रामपुरा–आगुचा माईन्स, भीलवाडा।

..विपक्षी

उपस्थित :

श्री चितरंजन पांडे,अधिवक्ता–प्रार्थी की ओर से।

श्री आर.सी.चेचाणी,अधिवक्ता–विपक्षी की ओर से।

:: **पंचाट** :: दिनांक : 13.08.2024

प्रार्थी श्रमिक चांदमल ने विपक्षी के विरूद्ध सेवा पृथककरण बाबत अपना विवाद सुलह अधिकारी एवं सहायक श्रम आयुक्त (केन्द्रीय), अजमेर के समक्ष पेश किया, जहां कोई समझौता नहीं होने के कारण सुलह अधिकारी द्वारा दिनांक 5.1.2015 को अपना विवाद इस न्यायालय के समक्ष पेश करने के निर्देश प्रार्थी को दिये गये। तत्पश्चात् प्रार्थी ने औद्योगिक विवाद अधिनियम 1947 (जिसे पंचाट में आगे अधि0 1947 से सम्बोधित किया जायेगा) की धारा 2 (ए) के तहत यह विवाद इस न्यायालय के समक्ष पेश किया।

तत्पश्चात् श्रम मंत्रालय,भारत सरकार ने आदेश क्रमांक –L-27012/15/2015-IR[M] दिनांक 8.4.2015 के द्वारा अग्रलिखित विवाद इस न्यायालय को अधिनिर्णयार्थ प्रेषित किया–

Whether the action of the management of M/s. Hindustan Zink Ltd.,Rampura Agucha Mines, Bhilwara in terminating the services of Sh.Chandmal S/o Sh. Ramkishan Mali w.e.f.20.5.2011 is legal and justified? if not, what relief the workman is entitled to?

प्रार्थी की ओर से प्रस्तुत क्लेम प्रार्थना पत्र में यह अंकित किया गया है कि उसका चयन विपक्षी द्वारा खान अधि0,1952 के तहत चयन समिति द्वारा बतौर कारपेंटर किया गया तथा उसने दिनाक 1.2.1984 से विपक्षी संस्थान में कार्य करना प्रारंभ किया। तत्पश्चात् उसे एस.एम. कन्स्ट्रक्शन कंपनी व इसके बाद नारायण कन्स्ट्रक्शन कं0 कंपनी के निर्देशन में कार्य हेतु स्थानांतरित किया गया। जहां उसनें 19.5.2011 तक काम किया। उसे दिनाक 20.5.2011 को सेवा पृथक कर दिया गया। अधि0, 1947 की धारा 25–बी के तहत उसका नियोजन 'नियमित नियोजन' की तारीफ में आता है। खान में कार्य करने हेतु ठेकेदार व अन्य कंपनियां अंतराल से बदलती रहती है। ठेकेदार केवल सुपरवाईर ही है, नियोजक नहीं है। मास्टर कंपनी ही नियोजक है। उसे यूनियन की सदस्यता ग्रहण करने के कारण द्वेषतावश दिनाक 20.5.2011 से कार्य पर नहीं लिया गया। प्रार्थी ने समस्त वेतन परिलाभों सहित पुनः सेवा में पुनः नियोजित करवाने का निवेदन किया।

विपक्षी की ओर से जवाब पेश कर जाहिर किया गया कि उन्होंने प्रार्थी को कभी भी नियोजित नहीं किया। प्रार्थी ने शांतिस्वरूप कन्स्ट्रक्शन कंपनी व धनसार कंपनी के निर्देशन में कार्य करना बताया है, लेकिन उक्त कंपनी मामले में पक्षकार नहीं है। केन्द्र सरकार ने प्रार्थी व विपक्षी के मध्य नियोजक एवं नियोजिती के संबंध नहीं मानकर पक्षकारों के मध्य कोई औद्योगिक विवाद अस्तित्व में होना नहीं माना है, जिसे प्रार्थी ने चुनौती नहीं दी है। क्लेम प्रार्थना पत्र खारिज करने की प्रार्थना की गई।

दिनांक 24.11.2023 को प्रार्थी चांदमल की मृत्यु हो जाने के कारण उसके वारिसान–प्रेम देवी, ओम प्रकाश, नानू, नीतू व शांति को रिकार्ड पर लिया गया।

प्रार्थीगण की ओर से अनेक अवसर दिये जाने के बावजूद भी अपने समर्थन में कोई साक्ष्य पेश नहीं की गई।

विपक्षी की ओर से भी कोई साक्ष्य पेश नहीं की गई।

बहस अंतिम सुनी गई। पत्रावली का ध्यानपूर्वक अवलोकन किया गया।

बहस के दौरान अधिवक्ता प्रार्थी ने क्लेम प्रार्थना पत्र में उल्लेखित तथ्यों को दोहराते हुए वांछित अनुतोष दिलाने का निवेदन किया।

इसके विपरीत विपक्षी के अधिवक्ता ने यह बताया कि प्रार्थी उनका श्रमिक नहीं था। प्रार्थी व विपक्षी के मध्य श्रमिक–नियोजक के संबंध नहीं रहे हैं।

हमनें संपूर्ण पत्रावली का अध्ययन किया और विचार किया।

सर्वप्रथम यहां यह देखना है कि क्या चांदमल व विपक्षी के मध्य श्रमिक– नियोजक के संबंध रहे हैं?

इस संबंध में हस्तगत प्रकरण पर विचार करें तो चांदमल ने अपने क्लेम प्रार्थनापत्र में यह कहा है कि उसे विपक्षी द्वारा कारपेंटर के पद पर चयनित कर नियोजन में रखा–तत्पश्चात् एस.एम. कन्स्ट्रक्शन कंपनी व इसके बाद नारायण कन्स्ट्रक्शन कं0 कंपनी के निर्देशन में कार्य करने के लिए स्थानांतरित किया गया। उसने विपक्षी के अधीन दिनांक 1.2.1984 से 19.5.2011 तक काम किया तथा बिना कोई कारण बताये चांदमल को विपक्षी ने दिनांक 20.5.2011 को सेवा से पृथक कर दिया, लेकिन इन अभिकथनो के समर्थन में प्रार्थी चांदमल (अब मृतक) अपने जीवनकाल में बतौर गवाह अनेक अवसर दिये जाने के बावजूद भी न्यायालय में हाजिर नहीं आया था और न उसके वारिसान ही बतौर गवाह न्यायालय में हाजिर आए हैं। प्रार्थी चांदमल की मृत्यु प्रकरण के विचराधीन रहने के दौरान दिनांक 24.11.2023 को हो गई है। अतः ऐसी स्थिति में उसके द्वारा क्लेम प्रार्थनापत्र में किये गये अभिवचनों को विश्वसनीय नहीं माना जा सकता है और यह माना जा सकता है कि मृतक चांदमल के वारियान भी उसके द्वारा क्लेम प्रार्थनापत्र में किये गये अभिवचनो से सहमत नहीं है। ऐसी स्थिति में मृतक चांदमल व विपक्षी के मध्य श्रमिक– नियोजक के संबंध स्थापित होना भी साबित नहीं पाया जाता है। विपक्षी ने अपने जवाब में भी स्पष्ट रूप से कहा है कि प्रार्थी उनके नियोजन में कभी भी कार्यरत नहीं रहा है। प्रार्थी अपने जीवनकाल में भी बतौर गवाह अनेक अवसर दिये जाने के बावजूद भी न्यायालय में हाजिर नहीं आया था और न उसके वारिसान हाजिर आ रहे है। अतः मृतक चांदमल को विपक्षी के द्वारा दिनांक 20.5.2011 को अवैध रूप से सेवा से पृथक किया जाना साबित नहीं पाया जाता है। ऐसी स्थिति में मृतक चांदमल के वारिसान कोई राहत प्राप्त करने का अधिकारी नहीं है।

:: आदेश ::

अतः उक्त विवेचन के आधार पर यह आदेश दिया जाता है कि मृतक चांदमल व विपक्षी के मध्य श्रमिक– नियोजक के संबंध नहीं रहे हैं तथा उसे विपक्षी ने दिनांक 20.5.2011 को सेवा से पृथक नहीं किया था। मृतक चांदमल के वारिसान विपक्षी से कोई राहत प्राप्त करने के अधिकारी नहीं हैं।

पंचाट की प्रति केन्द्र सरकार को प्रकाशनार्थ भेजी जाये।

पंचाट आज दिनांक 13.8.2024 को खुले न्यायालय में सुनाया गया।

सुशील कुमार शर्मा, न्यायाधीश

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2093.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स मचाडो एंड संस एजेंट एंड स्टेवेदोरेस प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **यूनाइटेड माइन वर्कर्स यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न. 23/2014)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-29011/55/2013-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2093.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 23/2014)** of the **Central Government Industrial Tribunal cum Labour Court-2, Mumbai** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Machado & Sons Agent & Stevedores Pvt. Ltd.** and **United Mine Workers Union** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-29011/55/2013-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO.2, MUMBAI

PRESENT

SHRIKANT K. DESHPANDE

Presiding Officer

REFERENCE NO. CGIT-2/23 of 2014

EMPLOYERS IN RELATION TO THE MANAGEMENT OF

M/S. MACHADO & SONS

AGENT & STEVEDORES PVT. LTD.

Q-9/10, 2nd Floor, Tilak Commercial Complex,

Vasco-Da-Gama, Goa

Goa.

AND

THEIR WORKMEN.

UNITED MINE WORKERS UNION

The General Secretary,

United Mine Workers Union,

G-5, Macedo Apartment,

Tisk, Ponda, Goa

Goa.

APPEARANCES:

Party No. 1	:	Mr. Prasanna C. Chawdikar
		Advocate
Party No. 2	:	Mr. P. Gaonkar
		Representative

AWARD

Camp Goa

(Delivered on 24-09-2024)

1. This Reference has been made by the Central Government in exercise of powers under clause (d) of sub-section (1) and sub- section (2A) of Section 10 of the Industrial Disputes Act, 1947, vide Government of India, Ministry of Labour & Employment, New Delhi, order No. L-29011/55/2013-IR (M) dated 19.02.2014. The terms of reference given in the schedule are as follows:

`Whether the action of M/s. Machado & Sons Agent & Stevedores Pvt. Ltd. to retrench Sh. Sudhir Vishwanath Surlkar, Mechanic is legal and justified? If not, what relief the workman is entitled to?`

2. Read Ex-22, consent term filed before the court. Verified the Second Party in presence of his representative. The counsel for the First Party present before the court. It seems that, the parties have settled their claim amicably out of the court as per consent term Ex-22 accordingly the Party No. 2 accepted the Cheque of Rs. 30903/-.

In view of this, the Reference is disposed off as settled. The Party No. 2 is not entitled to relief. No order as to costs.

Hence, I pass the following Award-

AWARD

i. The Reference is answered in the negative.

ii. The Party No. 2 is not entitled for any relief as prayed.

iii. No order as to costs.

iv. The copy of Award be sent to the Government.

Camp Goa

Date: 24-09-2024

SHRIKANT K. DESHPANDE, Presiding Officer

दिल्ली, 7 नवम्बर, 2024

का.आ. 2094.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स भिलाई स्टील प्लांट** के प्रबंधतंत्र के संबद्ध नियोजकों और **भिलाई इस्पात कर्मचारी यूनियन; मेटल माइंस वर्कर्स यूनियन (इंटक); इस्पात श्रमिक मंच** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, जबलपुर, पंचाट (रिफरेन्स न. 15/2017)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-26011/28/2016-आईआर(एम)]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2094.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 15/2017)** of the **Central Government Industrial Tribunal cum Labour Court, Jabalpur** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s Bhilai Steel Plant** and **Bhilai Ispat Karmachari Union; Metal Mines Workers Union (INTUC); Ispat Shramik Manch** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-26011/28/2016-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/15/2017

Present: P.K.Srivastava

H.J.S..(Retd)

1. **The Dy. General Secretary,**
   Bhilai Ispat Karmachari Union,
   2/A, Street-29, Sector-04, Bhilai Nagar,
   Dist. Durg (C.G.) – 490 001
2. **The President,**
   Metal Mines Workers Union (INTUC),
   Qtr. No. 6A, Street-37B, Sector-7,
   Bhilai Nagar, Dist. – Durg (C.G.) – 490 006
3. **The Dy. General Secretary,**
   Ispat Shramik Manch, Qtr. No. 11/D,
   Street Avenue-E, Sector-6, Bhilai,
   Dit- Durg (C.G.) – 490 006

Workman

Vs

The Executive Director,
M/s Bhilai Steel Plant,
Bhilai, Dist. Durg (C.G.) – 490 001

Management

(J U D G EM E N T)

(Passed on this 23rd day of September-2024)

As per letter dated 13/02/2017 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of Industrial Disputes Act, 1947 (in short the 'Act') as per Notification No. L-26011/28/2016-IR (M) dt. 13/02/2017. The dispute under reference relates to:

"Whether, the action of the management of Bhilai Steel Plant in respect of non-implementing promotion policy from 2010 onwards for Non-Executive to Executive Cadre is legal and justified? If not, what relief the workmen are entitled to?"

After registering a case on the basis of the reference received, notices were sent to the parties and were duly served. Both the parties appeared and filed their respective statement of claim and defense.

The skeletal facts, relevant to the controversy, are mainly that admittedly, the applicant workmen are the employees of management working in Non-Executive Cadre. A promotion policy was announced and rules there under were framed by management for promotion from Non-Executive Cadre to Executive Cadre on 30.01.2008, amended on 21.02.2008. According to this promotion policy promotion from Non-Executive Cadre to Executive Cadre was to be done after a written examination of eligible candidates working in the Non-Executive Cadre. To be taken very subsequent here that is once in two years and 10% of the persons working in the Non-Executive Cadre were to be promoted in Executive Cadre on the basis of this selection process. Case of the applicants is that first examination for this promotion was held in 2010. Thereafter, it was to be held in 2012, 2014 and 2016 but management did not conduct any such examination resulting into loss of opportunities to the eligible candidates hence depriving them from promotion. Later on, the management revised its promotion policy and amended the rules reducing the quota for promotion from Non-Executive Cadre to Executive Cadre from 10% to 2%. According to the workmen union, this action of management is arbitrary, malafide, illegal and unjustified and is unfair labor practice. The workman side has thus requested that holding the action of management in not implementing promotion policy from 2010 onward for Non-Executive to Executive Cadre is arbitrary, against law and unjustified. The eligible workman be held entitled to promotion.

Management has defended the action of changing the rules and reducing the quota from 10% to 2% i.e. not conducting the examination/ selection process in the years 2012, 2014 and 2016 under the rules with the case that being employer, they are at liberty to change the rules and limit the quota.

Both the sides have filed affidavits and document which are admitted and to be referred as when required.

Have heard argument of Advocate Shri K.B. Singh learned Counsel for the workmen union and Shri R.C. Shrivastava learned counsel for management. Parties have filed their written arguments also have gone through the written arguments as well the record.

On perusal of record in the light of rival arguments reveals following issue for consideration.

"***Whether the action of non-conducting the examination/ selection process in the year 2012, 2014 and 2016 and not promoting eligible candidates/workmen from non-Executive Cadre to Executive Cadre as per quota provided in the 2008 rules in this respect by the management and reducing the quota from 10% to 2% under 2018 rules a well applying it retrospectively is justified in law.***"

For the sake of convenience, the 2010 and 2018 rules, relevant questions required to be referred here and are being reproduced as follows:

2008 Rules-

4.0 <u>Selection Procedure</u>

4.1 **<u>Inviting Applications</u>**

4.1.1 Applications from the eligible candidates will be invited through a circular. The applications will be accepted at the respective plant/units on line as per the format enclosed as Annexure-III. The plant/units will forward the data to MTI for compilation and onward transfer to the agency selected to conduct the written test. The candidate would be required to submit the undertaking at the time of interview.

4.2 **<u>Conduct of Written Test :</u>**

4.2.1 The written test will be of objective type and the qualification wise broad structure would be as under :-

Qualification category	Broad Test Segments
Technical	
Degree in Engineering or equivalent Diploma in Engineering/ B.Sc. (PCM) or equivalent	General/ Company awareness Managerial Ability General Plant Operation Engineering
Matric/Matric+ITI	General/ Company awareness Managerial Ability General Plant Awareness
Non-Technical	
(i) Specified Professional qualification. (ii) Graduates or equivalent	General/ Company awareness Managerial Ability General Functional Management

4.2.2 The written test will be conducted at plants/units centrally by an external agency and MTI will function as an overall coordinating agency.

4.2.3 Employees of Plants/Units who are posted at other plant/unit locations can be appear in the written test at respective plant/unit location.

4.3 Qualifying criteria in Written Test and calling for Interview:

4.3.1 To qualify in the written test, candidates will have to obtain a minimum of 40% marks in each of the test segment (30% for SC/ST candidates). Based on the marks obtained in the written test a merit list will be prepared, separate for each qualification segment. Those candidates who will qualify in the written test will be called for interview in the ration of 1:14 in order of merit. In case there is more than one candidate with the same merit point and within the zone of consideration, all of them will be called for interview.

5.0 Number of Promotions

5.1 **The number of promotion within a plant/unit will be maximum 10% of the total number of applicants. Within the overall number of promotions so decided, plant/unit can decide the area wise distribution of candidates as per requirements.(emphasis supplied)**

5.2 While effecting the promotions plant/unit may keep the number of promotions restricted in non-technical stream to 25% of total promotions.

5.3 In technical stream also the number of promotions to employees having eligibility due to minimum qualification of Matric/Matric+ITI may be kept to 10% of the total promotions in technical stream.

5.4 However, if sufficient numbers of SC/ST candidates are not available within the above upper limits, plants/units can relax these conditions for SC/ST candidates to meet the reservation requirements.

2018 Rules –

5.0 **NUMBER OF PROMOTIONS**

5.1 'The number of promotions in a plant/unit would not be more than 2% of the total employee strength in S-6 to S-11 grades on the 1st day of the month of notification, in the respective plant/unit.' Within the overall number of promotions so decided, plant/unit can decide the stream wise distribution of candidates as per requirement.

Learned counsel for the workmen union has submitted that it is incumbent on the management to follow rules framed by it and accordingly conduct examinations/ selection process by way of promotion of Non-Executive to Executive Cadre as per the quota of 10% provided in the 2008 rules and the rule amended in 2018 cannot be applied retrospectively hence, since the workmen in Non-Executive Cadre who were eligible and willing to undergo selection process regarding 10% of posts in Executive Cadre in the light of rules of 2008 were entitled to this opportunity and action of management by not providing this opportunity to eligible workmen by way of not conducting examination/ selection process in 2012, 2014 and 2016 according to the rules is nothing but malafide, arbitrary and illegal. Any amended rule will come into force from date it comes into operation and not retrospectively learned counsel has referred to following decisions in this respect.

1. ***Home Secretary U.T. of Chandigarh and Others Vs Singh Agrawal and Others (1993) 4 SCC 25 – held –*** *policy guidelines are binding till all as they are relatable to the executive power of Chandigarh administration it is axiomatic that having policy of general application and having communicated it to all concerns, the administration is bound of it. It could of-course change policy but till that is done, it is bound to adhere to it.*

2. ***Virendra S Hooda and others Vs State of Haryana and Others (1999) 3 SCC 696-held-*** *policy decision is binding if not contrary to rules.*

3. National Building Construction Corporation Vs S. Raghunathan (1998) 7 SCC 66 referred paragraphs are as follows-

This extract is taken from *National Buildings Construction Corpn. v. S. Raghunathan*, (1998) 7 SCC 66 : 1998 SCC (L&S) 1770 at page 75

The relevant paragraphs are being reproduced as follows-

"18. *The doctrine of "legitimate expectation" has its genesis in the field of administrative law. The Government and its departments, in administering the affairs of the country, are expected to honour their statements of policy or intention and treat the citizens with full personal consideration without any iota of abuse of discretion. The policy statements cannot be disregarded unfairly or applied selectively. Unfairness in the form of unreasonableness is akin to violation of natural justice. It was in this context that the doctrine of "legitimate expectation" was evolved which has today become a source of substantive as well as procedural rights. But claims based on "legitimate expectation" have been held to require reliance on representations and resulting detriment to the claimant in the same way as claims based on promissory estoppel."*

19. *Lord Scarman in R. v. IRC, ex p Preston [1985 AC 835 : (1985) 2 All ER 327 : (1985) 2 WLR 836, HL] laid down emphatically that unfairness in the purported exercise of power can amount to an abuse or excess of power. Thus the doctrine of "legitimate expectation" has been developed, both in the context of reasonableness and in the context of natural justice.*

20. *Lord Diplock in* ***Council of Civil Service Unions v. Minister for the Civil Service*** *[1985 AC 374 : (1984) 3 All ER 935 : (1984) 3 WLR 1174, HL] laid down that the doctrine of "legitimate expectation" can be invoked if the decision which is challenged in the court has some person aggrieved either (a) by altering rights or obligations of that person which are enforceable by or against him in private law; or (b) by depriving him of some benefit or advantage which either (i) he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do until there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment; or (ii) he has received assurance from the decision-maker that it will not be withdrawn without giving him first an opportunity of advancing reasons for contending that it should not be withdrawn.*

(emphasis supplied)

21. *The Indian scenario in the field of "legitimate expectation" is not different. In fact, this Court, in several of its decisions, has explained the doctrine in no uncertain terms.*

22. *In* ***Navjyoti Coop. Group Housing Society v. Union of India [(1992) 4 SCC 477] the decision of the House of Lords in Council of Civil Service Unions v. Minister for the Civil Service [1985 AC 374 : (1984) 3 All ER 935 : (1984) 3 WLR 1174, HL]*** *was followed and that decision was summarised in the following words: (SCC p. 494, para 15)*

"It has been held in the said decision that an aggrieved person was entitled to judicial review if he could show that a decision of the public authority affected him of some benefit or advantage which in the past he had been permitted to enjoy and which he legitimately expected to be permitted to continue to enjoy either until he was given reasons for withdrawal and the opportunity to comment on such reasons."

23. *This Court further observed as under:* ***(SCC pp. 494-95, paras 15 and 16)***

"The existence of 'legitimate expectation' may have a number of different consequences and one of such consequences is that the authority ought not to act to defeat the 'legitimate expectation' without some overriding reason of public policy to justify its doing so. In a case of 'legitimate expectation' if the authority proposes to defeat a person's 'legitimate expectation' it should afford him an opportunity to make representations in the matter.

It may be indicated here that the doctrine of 'legitimate expectation' imposes in essence a duty on public authority to act fairly by taking into consideration all relevant factors relating to such 'legitimate expectation'. Within the conspectus of fair dealing in case of 'legitimate expectation', the reasonable opportunities to make representation by the parties likely to be affected by any change of consistent past policy, come in."

24. ***In Food Corpn. of India v. Kamdhenu Cattle Feed Industries [(1993) 1 SCC 71]*** *it was held that in all State actions, the State has to conform to Article 14 of the Constitution of which non-arbitrariness is a significant facet. It was further observed that there is no unfettered*

discretion in public law and a public authority possesses powers only to use them for public good. It was further observed as under: ***(SCC p. 76, para 8)***

"The mere reasonable or legitimate expectation of a citizen, in such a situation, may not by itself be a distinct enforceable right, but failure to consider and give due weight to it may render the decision arbitrary, and this is how the requirement of due consideration of a legitimate expectation forms part of the principle of non-arbitrariness, a necessary concomitant of the rule of law. Every legitimate expectation is a relevant factor requiring due consideration in a fair decision-making process. ***Whether the expectation of the claimant is reasonable or legitimate in the context is a question of fact in each case. Whenever the question arises, it is to be determined not according to the claimant's perception but in larger public interest wherein other more important considerations may outweigh what would otherwise have been the legitimate expectation of the claimant****. A bona fide decision of the public authority reached in this manner would satisfy the requirement of non-arbitrariness and withstand judicial scrutiny. The doctrine of legitimate expectation gets assimilated in the rule of law and operates in our legal system in this manner and to this extent."*

(emphasis supplied)

"25. *In* ***Union of India v. Hindustan Development Corpn. [(1993) 3 SCC 499]*** *the meaning of the words "legitimate expectation" was again considered. Quoting from the case of* ***Attorney General for New South Wales v. Quin [(1990) 64 Aust LJR 327]*** *the following lines:*

"To strike down the exercise of administrative power solely on the ground of adrift on a featureless sea of pragmatism. Moreover, the notion of a legitimate expectation (falling short of a legal right) is too nebulous to form a basis for invalidating the exercise of a power when its exercise otherwise accords with law."

The Court observed as under: (SCC p. 549, para 35)

"If a denial of legitimate expectation in a given case amounts to denial of right guaranteed or is arbitrary, discriminatory, unfair or biased, gross abuse of power or violation of principles of natural justice, the same can be questioned on the well-known grounds attracting Article 14 but a claim ***based on mere legitimate expectation without anything more cannot ipso facto give a right to invoke these principles.*** *It can be one of the grounds to consider but the court must lift the veil and see whether the decision is violative of these principles warranting interference.* ***It depends very much on the facts and the recognised general principles of administrative law applicable to such facts and the concept of legitimate expectation which is the latest recruit to a long list of concepts fashioned by the courts for the review of administrative action, must be restricted to the general legal limitations applicable and binding the manner of the future exercise of administrative power in a particular case.*** *It follows that the concept of legitimate expectation is 'not the key which unlocks the treasury of natural justice and it ought not to unlock the gates which shuts the court out of review on the merits', particularly when the element of speculation and uncertainty is inherent in that very concept."*

26. *This doctrine was reiterated in* ***M.P. Oil Extraction v. State of M.P. [(1997) 7 SCC 592]*** *in which it was also laid down that though the doctrine of "legitimate expectation" is essentially procedural in character and assures fair play in administrative action, it may, in a given situation, be enforced as a substantive right."*

On the other hand, Ld. Counsel for management has submitted that employee has no right to be promoted and promotion or grant of promotion is within the realm of management. This argument is misconceived. No doubt no employee has an inherit right to be promoted but every employee has right to be considered have promotion in the light of rules provocation for this.

Hence, in the light of above discussion and principle of law laid down in the aforesaid judgments, the applicant workers in the Non-Executive Cadre had right to be considered for promotion according to the extant rule of 2008 management was required in law to conduct examination for promotion from Non-Executive Cadre to Executive Cadre within every two years and also 10% of the workers in Non-Executive Cadre were to be promoted to Executive Cadre by way of the promotion process mentioned in 2008 rules. Since the amended rules of 2018 first did not provide that it were to be effective retrospectively hence they will be effective prospectively that is from the date these rules were notified and become effective. Thus the action of management in not conducting examination/ promotion process for promotion of the workman in Non-Executive Cadre to Executive Cadre in the way as provided in 2008 rules and not promoting these workmen to their extant of quota which was 10% is nothing but arbitrary, unjust and malafide which can be sustain in law.

Hence, holding the action of management unjust, illegal and malafide the applicant workmen are held entitled to be given opportunity to appear in a examination which was to be conducted in 2012, 2014 and 2016 by management under 2008 rules and management of Bhilai Steel Plant is held under obligation to conduct this exam

within three months from the date of obligation of award. In the light of 2008 Rules and amended promotion of illegible applicants as per rules mentioned above.

In the light of above discussion the reference is answered as follows.

AWARD

Holding the action of management of Bhilai Steel Plant in respect of Non implementing promotion policy from 2010 onward for non-executive to Executive Cadre against law and unjustified as well arbitrary, the applicant workmen are held entitled to be given opportunity to appear in a exam which was to be conducted in 2012, 2014 and 2016 by management under 2008 rules and management of Bhilai Steel Plant is held under obligation to conduct this exam within three months from the date of obligation of award.

DATE:- 23/09/2024

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2095.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **मेसर्स ओएनजीसी लिमिटेड; मेसर्स इ टी ए इंजीनियरिंग प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **ओएनजीसी कॉन्ट्रैक्ट एम्पलॉईस यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली, पंचाट (रिफरेन्स न. 50/2020)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-30011/8/2020-आईआर(एम)]
दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2095.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 50/2020)** of the **Central Government Industrial Tribunal cum Labour Court-1, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **M/s ONGC Limited; M/s ETA Engineering Pvt. Ltd.** and **ONGC Contract Employees Union** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-30011/8/2020-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT DELHI NO.1 NEW DELHI.

ID.No. 50/2020

The General Secretary,
ONGC Contract Employees Union,
15, Sewak Ashram Road, Dehradun (UK). …… . .Workman

Versus

1. The General Manager (IR),
   M/s ONGC Ltd.,
   Green Hills, Dehradun (UK).
2. The General Manager (Electrical Deptt.),
   M/s ONGC Ltd.,
   Shed No. 28, Tel Bhawan, Dehradun (UK).
3. The Director,
   M/s ETA Engineering PVT. Ltd.
   B-13, Sector-63, Noida (UP)- 201307.

……..Management

AWARD

In the present case, a reference was received from the appropriate Government vide letter No. L-30011/8/2020 (IR(M)) dated 14/07/2020 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Act, for adjudication of a dispute, terms of which are as under:

SCHEDULE

"Whether the management (ONGC Ltd. & ETA Engg Ltd) has violated the provisions contained under the contract agreement in denying the benefits of fair wage policy to its workmen on the given contract? If so, what directions can be given to the management parties for extending benefit of fair wage policy now?"

2. Both parties were put to notice and the claimant filed the claim statement.

3. However, the matter has been amicably settled between the parties.

4. The claimant vide separate statement made before this Tribunal on 16.10.2024 stated that he has settled the matter with the management, as such, it is held that the claim/ dispute of the workman/claimant stands finally settled. Award is passed accordingly.

5.. Let a copy of this Award be sent for publication as required under Section 17 of Act.

Justice VIKAS KUNVAR SRIVASTAVA **,** Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2096.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; मेसर्स पेट्रोलियम एंड नेचुरल गैस** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सुरेश** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, चंडीगढ़, पंचाट (रिफरेन्स न.-215/2013)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-30012/73/2013-आईआर(एम)]
दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2096.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 215/2013)** of the **Central Government Industrial Tribunal cum Labour Court-1, Chandigarh** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; M/s Petroleum & Natural Gas** and **Shri Suresh** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-30012/73/2013-IR(M)]

DILIP KUMAR, Under Secy.

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, CHANDIGARH.
Present: Sh. Kamal Kant, Presiding Officer-cum-Link Officer, Chandigarh.

ID No.215/2013
Registered On: 10.03.2014
Suresh S/o Sh. Lila Ram R/o Village & P.O. Kohand, District: Karnal (Haryana).

.....Workman

Versus

1. The Sr. Plant Manager, Indian Oil Corporation Ltd. (NR) Indane Bottling Plant, Kohand-Assandh Road, Village & Post Gudha, Karnal-132114 (Haryana).

2. M/o Petroleum & Natural Gas, ShastriBhawan, New Delhi, Pincode-110001.

.....Managements

AWARD

Passed On:17.09.2024

Central Government vide Notification No. L-30012/73/2013 (IR(M) dated 14.02.2014, under clause (d) of Sub-Section (1) sub-section (2) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

> "**Whetherthe Contract awarded by the Management of Senior Plant Manager, Indian Oil Corporation Ltd. (NR), Indane Bottling Plant, Kohand-Assandh Road, Village & Post-Gudha, Karnal-132114 (Haryana) is a Sham Contract and contractors M/s. D.S. Goyal& M/s. Ramphal& Company are a camaflouge? If yes, whether the demand of workman Sh. Suresh S/o Lila Ram, Ex-Haulaghe workman in termination of his services w.e.f. 30.09.1995 by the above management was just, fair and legal? If not, to what relief the workman is entitled to and from which date?"**

1. During the pendency of the proceedings before this Tribunal the case was fixed for filing reply to the application but none is responding on behalf of workman. It is submitted by the Ld. Counsel for the Workmanthat Workman has died and has no Legal Representatives and placed on record death certificate of the Workman and withdraw the present reference.
2. Perused the file and it is found that the submissions made by the Ld. Counsel for Workman is true. Which denotes that the workman has died and as there are no Legal Representatives of the Workman for adjudication of the matter on merits as such, this Tribunal is left with no choice except to pass a 'No Claim Award'. Accordingly, no claim award is passed in the present case for the non-prosecution of workman. File after completion be consigned in the record room.
3. Let copy of this award be sent to Central Government for publication as required under Section 17 of the ID Act, 1947.

KAMAL KANT, PO-cum-Link Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2097.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयरपोर्ट अथॉरिटी ऑफ़ इंडिया; एपीएम एयर कारगो टर्मिनल सर्विसेज; मेसर्स सेलेबी दिल्ली कारगो टर्मिनल मैनेजमेंट इंडिया प्राइवेट लिमिटेड; डायल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री फ़तेह सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 44/2014)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-16025/04/2024-आईआर(एम)-136]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2097.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 44/2014)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Airports Authority of India; APM Air Cargo Terminal Services; M/s Celebi Delhi Cargo Terminal Management India Pvt Ltd; DIAL** and **Shri Fateh Singh** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-16025/04/2024-IR(M)-136]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI
I.D. No. 44/2014

Sh. Fateh Singh, S/o Sh. Lekh Ram,
R/o VPO Jatoli Mandi, Gurgaon, Haryana.
Through- Airport Employees Union,
BTR Bhawan, 13-A, Rouse Avenue, New Delhi-110002.

Versus

1. **The Director, Airport Authority of India,**
Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi-110003.

2. **APM Air Cargo Terminal Services,**
107, Transport Centre, Punjabi Bagh, New Delhi-110035.

3. **The Director,**
M/s Celebi Delhi Cargo Terminal Management India Pvt. Ltd.
Room No. 23, Import Bldg., 1st Floor,
International Cargo Terminal, IGI Airport,
New Delhi,
New Delhi-110037.

4. **The Director,**
DIAL, Udaan Bhawan, IGI Airport, New Delhi,
New Delhi-110037.

AWARD

Sh. Johan Topno, Under Secreteray, GOI has sent the reference to this tribunal for adjudication with the following words:

"Whether the retirement of the workman Sh. Fateh Singh, S/o Sh. Lekh Ram on the basis of recorded of his date of birth as 08.03.54, is just, fair and legal?""Whether the retirement or compulsory retirement of the workman may be treated as retrenchment? If yes whether he is entitled to notice pay, compensation, leave encashment etc.? If not what relief the workman concerned is entitled to?"

After receiving the reference workman had filed the claim statement. W.S had been filed by the respondents. Issues were framed vide order dated 28.11.2016. Workman was asked to lead evidence.

Workman has not been appearing since long. One Sh. Ram Karan had appeared and stated that the workman Sh. Fateh Singh has been expired.

In these circumstances, His case stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date 02.09, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2098.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयरपोर्ट अथॉरिटी ऑफ़ इंडिया; एपीएम एयर कारगो टर्मिनल सर्विसेज; मेसर्स सेलेबी दिल्ली कारगो टर्मिनल मैनेजमेंट इंडिया प्राइवेट लिमिटेड; डायल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राज बीर** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 46/2014)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-16025/04/2024-आईआर(एम)-137]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2098.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 46/2014)** of the **Central Government Industrial Tribunal**

cum Labour Court-2, New Delhi as shown in the Annexure, in the Industrial dispute between the employers in relation to **Airports Authority of India; APM Air Cargo Terminal Services; M/s Celebi Delhi Cargo Terminal Management India Pvt Ltd; DIAL** and **Shri Raj Bir** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-16025/04/2024-IR(M)-137]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 46/2014

Sh. Raj Bir, S/o Sh. Bani Singh,

Through- Airport Employees Union,
BTR Bhawan, 13-A, Rouse Avenue, New Delhi-110002.

Versus

1. **The Director, Airport Authority of India,**

   Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi-110003.

2. **APM Air Cargo Terminal Services,**

   107, Transport Centre, Punjabi Bagh, New Delhi-110035.

3. **The Director,**

   M/s Celebi Delhi Cargo Terminal Management India Pvt. Ltd.
   Room No. 23, Import Bldg., 1st Floor,
   International Cargo Terminal, IGI Airport,
   New Delhi,
   New Delhi-110037.

4. **The Director,**

   DIAL, Udaan Bhawan, IGI Airport, New Delhi,

   New Delhi-110037.

AWARD

Sh. Johan Topno, Under Secreteray, GOI has sent the reference to this tribunal for adjudication with the following words:

"Whether the retirement of the workman Sh. Raj Bir, S/o Sh. Bani Singh on the basis of recorded of his date of birth as 07.05.1953, is just, fair and legal?""Whether the retirement or compulsory retirement of the workman may be treated as retrenchment? If yes whether he is entitled to notice pay, compensation, leave encashment etc.? If not what relief the workman concerned is entitled to?"

After receiving the reference workman had filed the claim statement. W.S had been filed by the respondents. Issues were framed vide order dated 21.03.2017. Workman was asked to lead evidence.

Workman has not been appearing since long. Sh. Syed Sajjad Ali on behalf of the workman submits that workman is not in touch with him.

In these circumstances, when the claimant is not interested in pursuing the claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date 02.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2099.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयरपोर्ट अथॉरिटी ऑफ़ इंडिया; एपीएम एयर कारगो टर्मिनल सर्विसेज; मेसर्स सेलेबी दिल्ली कारगो टर्मिनल मैनेजमेंट इंडिया प्राइवेट लिमिटेड; डायल** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री दर्शन सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय**

सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 48/2014) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. एल-16025/04/2024-आईआर(एम)-138]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2099.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 48/2014)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Airports Authority of India; APM Air Cargo Terminal Services; M/s Celebi Delhi Cargo Terminal Management India Pvt Ltd; DIAL** and **Shri Darshan Singh** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. L-16025/04/2024-IR(M)-138]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 48/2014

Sh. Darshan Singh, S/o Sh. Bharmal Singh,

Through- Airport Employees Union,

BTR Bhawan, 13-A, Rouse Avenue, New Delhi-110002.

Versus

1. **The Director, Airport Authority of India,**
   Rajiv Gandhi Bhawan, Safdarjung Airport, New Delhi-110003.
2. **APM Air Cargo Terminal Services,**
   107, Transport Centre, Punjabi Bagh, New Delhi-110035.
3. **The Director,**
   M/s Celebi Delhi Cargo Terminal Management India Pvt. Ltd.
   Room No. 23, Import Bldg., 1st Floor,
   Cargo Terminal, IGI Airport,
   New Delhi,
   New Delhi-110037.
4. **The Director,**
   DIAL, Udaan Bhawan, IGI Airport, New Delhi,
   New Delhi-110037.

AWARD

Sh. Johan Topno, Under Secreteray, GOI has sent the reference to this tribunal for adjudication with the following words:

"Whether the retirement of the workman Sh. Darshan Singh, S/o Sh. Bharmal Singh on the basis of recorded of his date of birth as 01.07.53, is just, fair and legal?""Whether the retirement or compulsory retirement of the workman may be treated as retrenchment? If yes whether he is entitled to notice pay, compensation, leave encashment etc.? If not what relief the workman concerned is entitled to?"

After receiving the reference workman had filed the claim statement. W.S had been filed by the respondents. Issues were framed vide order dated 28.11.2016. Workman was asked to lead evidence.

Workman has not been appearing since long. One Sh. Ram Karan had appeared and stated that the workman Sh. Darshan Singh has been expired.

In these circumstances, His case stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date 02.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2100.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; राज कुमार राजन सिक्योरिटी एजेंसी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राजवीर सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 24/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-139]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2100.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 24/2023)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; Raj Kumar Rajan Security Agency** and **Shri Rajveer Singh** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-139]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 24/2023

Sh. Rajveer Singh, S/o Sh. Kartar Singh,

Through- Delhi Karamchari Sangh,
W-04, In Front of Kalkaji Bus Depot,
Govindpuri, New Delhi-110019.

VERSUS

1. The General Manager,

Indian Oil Corporation Ltd., (Marketing Division)
Brijwasan, New Delhi-110061.

2. Retd. Col. Sh. Rajan Kumar, (Proprietor)
Raj Kumar Rajan Security Agency,
Ground Floor-04, Competent House, Plot No. 07,
R.B.C. Nagal Ray, New Delhi-110046.

Appearance:

For Claimant: None

For Managements: Sh. Navin Kumar, Ld. AR for M-1.

Sh. Gyanveer Singh, Ld. AR for M-2.

AWARD

The appropriate Government has sent the reference refer dated 12.01.2023 to this tribunal for adjudication in the following words:

"Whether demands of Sh. Rajveer Singh S/o Sh. Kartar Singh, Gun Man through Delhi Karamchari Sangh (Regd.) vide letter dated 08.06.2022 against the management of M/s Rajan Kumar Rajan Security Agency, New Delhi (Contractor) under Indian Oil Corporation Ltd., Marketing Division, Bijwasan, New Delhi over the issue of alleged illegal termination of his services w.e.f. 01.05.2022 and reinstatement in service with all consequential benefits, are proper, legal and justified under ID Act, 1947? If yes, to what relief the disputant is entitled and what direction, if any, is necessary in the matter?"

After receiving the said reference, notices were issued to both the parties. Managements have been appearing in each date of hearing but, the claimant has not been appearing since the reference has been received to this tribunal. Even, the claimant has not come forward to file his claim statement before this tribunal, despite, providing a number of opportunities.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. Award is passed accordingly. File is consigned to the record room. A copy of this award is sent to the appropriate government for notification under section 17 of the I.D Act 1947.

Date: 10.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2101.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; राज कुमार राजन सिक्योरिटी एजेंसी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री ऋषिपाल सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 25/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-140]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2101.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 25/2023)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; Raj Kumar Rajan Security Agency** and **Shri Rishipal Singh** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[NoZ-16025/04/2024-IR(M)-140]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 25/2023

Sh. Rishipal Singh, S/o Sh. Soran Singh,

Through-Delhi Karamchari Sangh,

W-04, In Front of Kalkaji Bus Depot,

Govindpuri, New Delhi-110019.

VERSUS

1. **The General Manager,**

   Indian Oil Corporation Ltd., (Marketing Division)

Brijwasan, New Delhi-110061.

2. Retd. Col. Sh. Rajan Kumar, (Proprietor)

Raj Kumar Rajan Security Agency,
Ground Floor-04, Competent House, Plot No. 07,
R.B.C. Nagal Ray, New Delhi-110046.

Appearance:
For Claimant: None
For Managements: Sh. Navin Kumar, Ld. AR for M-1.
Sh. Gyanveer Singh, Ld. AR for M-2.

AWARD

The appropriate Government has sent the reference refer dated 12.01.2023 to this tribunal for adjudication in the following words:

> *"Whether demands of Sh. Rishipal Singh S/o Sh. Soran Singh, Security Guard through Delhi Karamchari Sangh (Regd.) vide letter dated 08.06.2022 against the management of M/s Rajan Kumar Rajan Security Agency, New Delhi (Contractor) under Indian Oil Corporation Ltd., Marketing Division, Bijwasan, New Delhi over the issue of alleged illegal termination of his services w.e.f. 01.05.2022 and reinstatement in service with all consequential benefits, are proper, legal and justified under ID Act, 1947? If yes, to what relief they are entitled and what direction, if any, is necessary in the matter?"*

After receiving the said reference, notices were issued to both the parties. Managements have been appearing in each date of hearing but, the claimant has not been appearing since the reference has been received to this tribunal. Even, the claimant has not come forward to file his claim statement before this tribunal, despite, providing a number of opportunities.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. Award is passed accordingly. File is consigned to the record room. A copy of this award is sent to the appropriate government for notification under section 17 of the I.D Act 1947.

Date : 10.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2102.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; राज कुमार राजन सिक्योरिटी एजेंसी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री रोहतास सिंह** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न.- 27/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-141]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2102.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 27/2023)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; Raj Kumar Rajan Security Agency** and **Shri Rohtas Singh** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-141]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 27/2023

Sh. Rohtas Singh, S/o Sh. Ratan Singh,

Through- Delhi Karamchari Sangh,

W-04, In Front of Kalkaji Bus Depot,

Govindpuri, New Delhi-110019.

VERSUS

1. The General Manager,

Indian Oil Corporation Ltd., (Marketing Division)

Brijwasan, New Delhi-110061.

2. Retd. Col. Sh. Rajan Kumar, (Proprietor)

Raj Kumar Rajan Security Agency,

Ground Floor-04, Competent House, Plot No. 07,

R.B.C. Nagal Ray, New Delhi-110046.

Appearance:

For Claimant: None

For Managements: Sh. Navin Kumar, Ld. AR for M-1.

Sh. Gyanveer Singh, Ld. AR for M-2.

AWARD

The appropriate Government has sent the reference refer dated 12.01.2023 to this tribunal for adjudication in the following words:

> *"Whether demands of Sh. Rohtash Singh S/o Sh. Ratan Singh, Security Guard through Delhi Karamchari Sangh (Regd.) vide letter dated 08.06.2022 against the management of M/s Rajan Kumar Rajan Security Agency, New Delhi (Contractor) under Indian Oil Corporation Ltd., Marketing Division, Bijwasan, New Delhi over the issue of alleged illegal termination of his services w.e.f. 01.05.2022 and reinstatement in service with all consequential benefits, are proper, legal and justified under ID Act, 1947? If yes, to what relief the disputant is entitled and what direction, if any, is necessary in the matter?"*

After receiving the said reference, notices were issued to both the parties. Managements have been appearing in each date of hearing but, the claimant has not been appearing since the reference has been received to this tribunal. Even, the claimant has not come forward to file his claim statement before this tribunal, despite, providing a number of opportunities.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. Award is passed accordingly. File is consigned to the record room. A copy of this award is sent to the appropriate government for notification under section 17 of the I.D Act 1947.

Date: 10.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2103.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; राज कुमार राजन सिक्योरिटी एजेंसी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री अनिल कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स**

न. 28/2023) को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-142]
दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2103.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 28/2023)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; Raj Kumar Rajan Security Agency** and **Shri Anil Kumar** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-142]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 28/2023

Sh. Anil Kumar, S/o Sh. Khajan Singh,

Through-Delhi Karamchari Sangh,

W-04, In Front of Kalkaji Bus Depot,

Govindpuri, New Delhi-110019.

VERSUS

1. **The General Manager,**
   Indian Oil Corporation Ltd., (Marketing Division)
   Brijwasan, New Delhi-110061.
2. **Retd. Col. Sh. Rajan Kumar, (Proprietor)**
   Raj Kumar Rajan Security Agency,
   Ground Floor-04, Competent House, Plot No. 07,
   R.B.C. Nagal Ray, New Delhi-110046.

Appearance:

For Claimant: None

For Managements: Sh. Navin Kumar, Ld. AR for M-1.

Sh. Gyanveer Singh, Ld. AR for M-2.

AWARD

The appropriate Government has sent the reference refer dated 12.01.2023 to this tribunal for adjudication in the following words:

"Whether demands of Sh. Anil Kumar S/o Sh. Khajan Singh, Security Guard through Delhi Karamchari Sangh (Regd.) vide letter dated 08.06.2022 against the management of M/s Rajan Kumar Rajan Security Agency, New Delhi (Contractor) under Indian Oil Corporation Ltd., Marketing Division, Bijwasan, New Delhi over the issue of alleged illegal termination of his services w.e.f. 01.05.2022 and reinstatement in service with all consequential benefits, are proper, legal and justified under ID Act, 1947? If yes, to what relief the disputant is entitled and what direction, if any, is necessary in the matter?"

After receiving the said reference, notices were issued to both the parties. Managements have been appearing in each date of hearing but, the claimant has not been appearing since the reference has been received to this tribunal. Even, the claimant has not come forward to file his claim statement before this tribunal, despite, providing a number of opportunities.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. Award is passed accordingly. File is consigned to the record room. A copy of this award is sent to the appropriate government for notification under section 17 of the I.D Act 1947.

Date: 10.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2104.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **इंडियन ऑयल कॉर्पोरेशन लिमिटेड; राज कुमार राजन सिक्योरिटी एजेंसी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री राज करण** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 35/2023)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-143]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2104.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 35/2023)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Indian Oil Corporation Limited; Raj Kumar Rajan Security Agency** and **Shri Raj Karan** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-143]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

ID.No. 35/2023

Sh. Raj Karan, S/o Sh. Umrao Singh,

Through-Delhi Karamchari Sangh,

W-04, In Front of Kalkaji Bus Depot,

Govindpuri, New Delhi-110019.

VERSUS

1. The General Manager,

Indian Oil Corporation Ltd., (Marketing Division)

2. Retd. Col. Sh. Rajan Kumar, (Proprietor)

Raj Kumar Rajan Security Agency,

Ground Floor-04, Competent House, Plot No. 07,

R.B.C. Nagal Ray, New Delhi-110046.

Appearance:

For Claimant: None

For Managements: Sh. Navin Kumar, Ld. AR for M-1.

Sh. Gyanveer Singh, Ld. AR for M-2.

AWARD

The appropriate Government has sent the reference refer dated 12.01.2023 to this tribunal for adjudication in the following words:

"Whether demands of Sh. Raj Karan S/o Sh. Umrao Singh, Security Guard through Delhi Karamchari Sangh (Regd.) vide letter dated 08.06.2022 against the management of M/s Rajan Kumar Rajan Security Agency, New Delhi (Contractor) under Indian Oil Corporation Ltd., Marketing Division, Bijwasan, New Delhi over the issue of alleged illegal termination of his services w.e.f. 01.05.2022 and reinstatement in service with all consequential benefits, are proper, legal and justified under ID Act, 1947? If yes, to what relief the disputant is entitled and what direction, if any, is necessary in the matter?"

After receiving the said reference, notices were issued to both the parties. Managements have been appearing in each date of hearing but, the claimant has not been appearing since the reference has been received to this tribunal. Even, the claimant has not come forward to file his claim statement before this tribunal, despite, providing a number of opportunities.

In these circumstances, this tribunal has no option except to pass the no disputant award. Hence, no disputant award is passed. Award is passed accordingly. File is consigned to the record room. A copy of this award is sent to the appropriate government for notification under section 17 of the I.D Act 1947.

Date: 10.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2105.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **एयरपोर्ट अथॉरिटी ऑफ़ इंडिया; डायल; मेसर्स सेलेबी कारगो हैंडलिंग दिल्ली प्राइवेट लिमिटेड; मेसर्स आईसीएम इंजीनियरिंग प्राइवेट लिमिटेड; मेसर्स बी. आर. पावर कंट्रोल एंड ऑटोमैटिक** के प्रबंधतंत्र के संबद्ध नियोजकों और **एयरपोर्ट एम्प्लाइज यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 101/2015)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-144]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2105.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 101/2015)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Airports Authority of India; DIAL; M/s CELEBI CARGO Handling Delhi Pvt. Ltd.; M/s ICM Engineering Pvt. Ltd.; M/s B.R. Power Control & Automatic** and **Airport Employees Union** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-144]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 101/2015

The General Secretary,

Airport Employees Union (Regd. 3750),

BTR Bhawan, 13-A, Rouse Avenue,

New Delhi-110092.

Versus

1. Airport Authority of India,
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi-110003.

2. DIAL
Udan Bhawan, IGAI Airport,
New Delhi-110037.

3. M/s. CELEBI CARGO Handling Delhi Pvt. Ltd.
Room No. 22, Import Building,
3, International Cargo Terminal,
IGI Airport, New Delhi-110037

4. M/s. ICM Engineering Pvt. Ltd.
58, Udyog Vihar, Phase-I,
Gurgaon, Haryana

5. M/s. B.R. Power Control and Automatic
IGI Airport
New Delhi

Appearance:-

For Claimants: None.

For Management: Sh. Akshit Gupta, Ld. AR for M-1 i.e. AAI.
Sh. Manish Sehrawat, Ld. AR for M-2 i.e. DIAL.

Ms. Muskaan Kaushik, Ld. AR for M-3 i.e. CELEBI.

AWARD

The appropriate Government had sent the reference refer dated 30.06.2015 to this tribunal for adjudication in the following words:

"Whether the action of the management of B.R. Power Control & Automatic as contractor of CELEBI in not allowing Sh. Madan Lal, Sh. Rampal and Sh. Narender Kumar to resume their duties w.e.f. 01.04.2014 cam be construed as termination without application of provisions of industrial disputes Act, 1947 & is it just, fair and legal? If not, what relief the workmen concerned are entitled to?"

Claim of the workmen are that they have been working with the managements. Name and particular of their employment are given below-

List of Workmen

Sr. No.	Name	Father's Name	Post	Dates of Joining	Dates of Termination	Last Drawn Salary
1	Madan Lal	Munshi Ram	Electrician	20.10.1986	31.03.2014	Rs. 14,784/-
2	Ram Pal	Uday Ram	Electrician	16.04.1997	31.03.2014	Rs. 11,277/-
3	Narendra Kumar	Dhani Ram	Sr. ETV Operator	01.12.1989	31.03.2014	Rs. 12,470/-

It is further the case of the workmen that they were recruited by the management-1 for the post of Sr. Electrician, Operator and Sr. Operator. Work assigned to them was similar in nature and thye were asked to operate cargo handling system. However, no appointment letter was given to them and no retirement age was prescribed by the managements. They had been discharging their duties diligently, sincerely and devotionally and there were no complaints against them regarding their performance of duties. It is the case of the workmen that they were issued notice by the management-4 on 28.02.2024 stating that six month contract for Delhi Cargo Operations with the main

contractor expiring on 31.03.2014 and was not renewed. They were given one month notice but, they were refused to take back on duties from the next date. They had worked upto 240 days in the year as such they submitted that their termination is declared illegal and they be reinstated with full back wages.

WS has been filed by the respondent-1, 2, 3 & 4. They have denied the relationship of employer and employee between the management and workmen. They submit that claim is liable to be dismissed.

After completion of the pleadings, following issues have been framed vide order dated 10.08.2018 i.e.-

1. Whether the claim is not legally tenable in view of the various preliminary objections?
2. In terms of the reference.

Now, the matter is listed for workman evidence. He is required to file his affidavit. Despite, providing a number of opportunities, workmen have not been appearing since long to substantiate his claim.

In these circumstances, when the claimants are not interested in pursuing the claim. Their claim stand dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date: 09.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2106.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **बर्ड वर्ल्डवाइड फ्लाइट सर्विसेज इंडिया प्राइवेट लिमिटेड; दिल्ली इंटरनेशनल एयरपोर्ट प्राइवेट लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री सूरज दुबे** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 185/2019)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-145]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2106.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 185/2019)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Bird Worldwide Flight Services India Pvt. Ltd.; Delhi International Airport Pvt. Ltd.** and **Shri Suraj Dubey** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-145]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. No. 185/2019

Sh. Suraj Dubey, S/o Sh. Shyam Bihari,

R/o-B-12, Gali NO. 10, Raj Nagar-II, Palam Colony,

New Delhi-110045.

Versus

1. Bird Worldwide Flight Services India Pvt. Ltd.

E-9, Connaught House, Connaught Place, New Delhi-110001.

2. Delhi International Airport Pvt. Ltd.

New Udaan Bhawan, Opp. Terminal-3, IGI Airport,

New Delhi-110037.

Appearance:-
For Claimant- None

For Managements- Sh. Hridesh, Clerk, for management-1 i.e. BWFS
Sh. Manish Sehrawat, Ld. AR for the M-2 i.e. DIAL

AWARD

This is an application of **U/S 2A of the Industrial Disputes Act (here in after is referred as an Act)** filed by the claimant for his illegal termination**.** Claimant had stated in his claim statement that he had been working with the respondent-1 on the post of Loader on 21.11.2011 at the last drawn salary Rs. 8,500/- Per month. The management-1 did not issue any appointment letter to him. The workman used to work sincerely, honestly and his service record was well satisfactory and he did not give any chance of complaint to the management-1. He was the active member of BWFS Karamchari Union and he always participated in all the union activities. The management-2 is proper party in the present case. The management-1 did not provide the legal facilities i.e. causal leave, leave book, CA, etc. to workman and he used to demand to management-1 to provide the above said legal facilities, but the management-1 did not provide the same to him. During the course of employment, the workman alongwith and union and other employees filed the case of general demand before the Presiding Officer Labour Court. The management-1 became annoyed with him and on 12.09.2016 the management-1 has illegally terminated to workman from his services, without any rhyme or reason, without conducted any domestic enquiry against the workman. After the termination of workman, the workman approached the management repeatedly seeking for reinstatement; however, the workman was not reinstated by the management-1. Workman has sent the demand notice to the management on 29.12.2017 and the said demand notice was duly served upon the management, but the management neither reinstated to him nor given any reply to the said demand notice. The management no. 1 had violated the provision of section 25F and G, 33 of ID Act, 1947, hence the termination of service of the workman is illegal and unjustified and liable to be set aside. He is entitled to reinstatement with full back wages. Hence, he filed the present claim. After the illegal termination, the workman is jobless and he is depending upon his family.

W.S have been filed by the management-1 and management-2. They have denied the averment made in his claim statement. They submit that claim is not maintainable and is liable to be dismissed.

After completion of the pleadings, following issues have been framed vide order dated 16.08.2022 i.e.-

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between the management no. 2 and the claimant.
3. Whether the service of the claimant was illegally terminated by management no. 1 without following the procedure laid U/s 25F of the ID Act.
4. To what relief the claimant is entitled to.

Now, the matter is listed for workman evidence. He is required to file his affidavit. Despite, providing a number of opportunities, workman has not been appearing since long to substantiate his claim.

In these circumstances, when the claimant is not interested in pursuing the claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date : 17th, September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2107.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **दिल्ली इंटरनेशनल एयरपोर्ट लिमिटेड; मेसर्स गैननॉन डूंकेरलय एंड कंपनी लिमिटेड** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मनीराम, आल इंडिया जनरल मज़दूर ट्रेड यूनियन** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 35/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-146]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2107.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 35/2018)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **Delhi International Airport Limited; M/s Gannon Dunkerley & Company Limited** and **Shri Maniram, All India General Mazdoor Trade Union** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-146]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

I.D. NO. 35/2018

Sh. Maniram, S/o Late Sh. Pakhuram,

All India General Mazdoor Trade Union,

170m Balmukund Khand Giri Nagar, Kalkaji,

Versus

1. The CEO

   M/s Delhi International Airport Ltd.

   IGL Airport, New Udaan Bhawan,

   Terminal-3, New Delhi-110037.

2. **M/s Gannon Dunkerely & Co. Ltd.,**

   B-228, Okhla Industrial Area, Phase-1,

   New Delhi- 110020.

AWARD

The appropriate government had sent the reference to this tribunal for adjudication with the following words.

"Whether the action of the management of M/s Gannon Dunkerley & Co. Ltd. contractor of DIAL in terminating the services of the workman Sh. Maniram from 23.12.2015 and non-payment of salary for 1.12.2015 is illegal and/or unjustified and if yes, to what relief the workman is entitled and what directions are necessary in this respect? "

After receiving the said reference, notices were issued to both the parties. Both the management and the claimant have appeared. Claimant has filed the claim statement.

WS have been filed by the M-1 & M-2. They have denied the averment made in his claim statement. They submit that claim is liable and deserve to be dismissed.

After completion of the pleadings, following issues have been framed vide order dated 31.05.2019 i.e.-

1. Whether the proceeding is maintainable.
2. Whether there exist employer and employee relationship between the workman and management no. 1.
3. Whether the service of the workman was illegally terminated by management no. 2 in violation of the provision of ID Act.
4. Whether the workman is entitled to the relief of reinstatement with back wages in the service of management no. 1.
5. To what other relief the parties are entitled to.

Now, the matter is listed for workman evidence. He is required to file his affidavit of evidence. Workman AR stated that claimant is not in touch with him for the last three years.

In these circumstances, when the claimant is not interested in pursuing his claim. His claim stands dismissed. Award is passed accordingly. A copy of this award is sent to the appropriate government for notification as required under section 17 of the ID act 1947. File is consigned to record room.

Date 23rd, September, 2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 7 नवम्बर, 2024

का.आ. 2108.—औद्योगिक विवाद अधिनियम (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार **नेशनल इन्सुरेंस कॉर्पोरेशन ऑफ़ इंडिया; एक्स-सर्विसमेन सिक्योरिटी एंड सर्विस एजेंसी** के प्रबंधतंत्र के संबद्ध नियोजकों और **श्री मुकेश कुमार** के बीच अनुबंध में निर्दिष्ट **केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली, पंचाट (रिफरेन्स न. 43/2018)** को जैसा कि अनुलग्नक में दिखाया गया है, प्रकाशित करती है जो केन्द्रीय सरकार को सॉफ्ट कॉपी के साथ 07.11.2024 को प्राप्त हुआ था।

[सं. जेड-16025/04/2024-आईआर(एम)-147]

दिलीप कुमार, अवर सचिव

New Delhi, the 7th November, 2024

S.O. 2108.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award **(Reference No. 43/2018)** of the **Central Government Industrial Tribunal cum Labour Court-2, New Delhi** as shown in the Annexure, in the Industrial dispute between the employers in relation to **National Insurance Corporation of India; Ex-Servicemen Security & Service Agency** and **Shri Mukesh Kumar** which was received along with soft copy of the award by the Central Government on 07.11.2024.

[No. Z-16025/04/2024-IR(M)-147]

DILIP KUMAR, Under Secy.

ANNEXURE

BEFORE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO-II, NEW DELHI

LCA No. 43/2018

Mukesh Kumar, S/o Sh. Sankar

R/o Indira Colony, Chukhuwala Dehradun, Dehradun-248001.

Versus

1. National Insurance Corporation of India
56, Rajpura Road, Dehradun

2. Ex-Servicemen Security & Service Agency
(ESSA) Shop No.-17 & 18, Second Floor
Uttaranchal Complex,
Rispana Pull, Dehradun,
(Uttarakhand)-248001

Appearance:-

For Claimants: Sh. D.M. Sharma and Sh. Gautam Dutta, Ld. ARs for the claimant.

For Managements: Sh. B.S. Rana, Ld. AR for M-1.

Sh. I.S. Yadav, Ld. AR along with Col. Sh. S.M. Gosain (MD) for M-2.

AWARD

This is an application **U/S 33C (2) of the Industrial Disputes Act (here in after is referred as an Act)** filed by the claimant.

Counsel of the workman submits that workman wants to withdraw the present claim. Statement of workman is recorded separately.

In view of the above submission made by the claimant, claim stands dismissed as withdrawn. Award is accordingly passed. A copy of this award is sent to appropriate government for notification under section 17 of the I.D. Act. File is consigned to record room.

Date: 19.09.2024

ATUL KUMAR GARG, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2024

का.आ. 2109.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार **बैंक ऑफ इंडिया** के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पुने के पंचाट (26/2014) प्रकाशित करती है।

[सं. एल - 12012/26/2014- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 13th November, 2024

S.O. 2109.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.26/2014*)* of the *Indus.Tribunal-cum-Labour Court Pune* as shown in the Annexure, in the industrial dispute between the management of Bank of India and their workmen.

[No. L-12012/26/2014- IR (B-II)]

SALONI, Dy. Director

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL, AT PUNE

BEFORE SHRI. K.N. GAUTAM, PRESIDING OFFICER

Reference (IT) No. 26 of 2014

The Zonal Manager,

Bank of India,

Z.O, 11626, Shivajinagar,

University Road, Pune 411 005. First Party

VERSUS

Shri. Sharad Rajaram Khadtare.

Flat No. A-004, Vishalgad Housing Society,

Deshmukh Ali, Chakan, Tal. Khed, Pune. Second Party

CORAM :- SHRI. K.N. GAUTAM, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, PUNE.

APPEARANCES :- Shri. B.S. Tapasvi, Advocate for the First Party.

Shri. R.P. Shaligram, Advocate for the Second Party.

P A R T I – A W A R D

ORDER ON PRELIMINARY ISSUE

(Dated : 09.08.2024)

This is a reference made by Government of India vide order dated 26.06.2014 under Section 10(1)(d) and 10(2A) of the Industrial Disputes Act, 1947 in respect of that whether the action of management of Bank of India, Pune in dismissing the service of Shri. Sharad Rajaram Khadatare with effect from 18.10.2000 is legal and justified? What relief the workman is entitled to?

Facts of the Second Party :

2. The Second Party filed its statement of claim and contended that he was working with the First Party since 11.01.1979. He was illegally terminated from service by the First Party vide letter dated 18.10.2000. At the time of termination, First Party was working as Accounts Clerk. The First Party is the nationalized bank engaged in banking industry. It is contended that the First Party issued suspension order dated 05.02.1997 to the Second Party and thereafter, issued charge-sheet dated 16.10.1999 to the Second Party. The Second Party submitted his reply to the charge-sheet vide reply dated 26.11.1999 and denied the charges leveled against him. Thereafter departmental inquiry was held and the Second Party participated in the inquiry with his defence representative. The Second Party submitted his defence statement on 01.06.2000. The inquiry was concluded on 11.07.2000 and the Inquiry Officer gave findings that the charges against the Second Party are proved. It is contended that said inquiry was not legal, fair and proper and not held as per the principles of natural justice. The findings of the Inquiry Officer were provided to the Second Party with show cause notice dated 03.08.2000. It is contended that the findings of the Inquiry Officer are totally erroneous and not based on the evidence brought on record. In response to show cause notice the Second Party issued letter dated 12.08.2000 to the First Party raising objection in respect of findings of the Inquiry Officer. However, the First Party without considering the same issued dismissal order dated 18.10.2000 against the Second Party. The Second Party prayed that the First Party be directed to reinstate him into the service, with continuity of service and with full back wages from the date of termination.

Facts of the First Party :-

3. The First Party filed its written statement at Exh. C-5 and denied almost all the contentions raised by the Second Party. It is contended that the demand of the Second Party is illegal and the dispute raised by him is not maintainable. It is contended that the Second Party was dismissed from service vide order dated 18.10.2000 after issuing charge-sheet dated 16.10.1999 following his suspension from service vide suspension order dated 13.02.1997. It is contended that the Second Party committed gross misconduct involving fraudulent withdrawal and misappropriation of the deposits of the customers. It is contended that the Second Party was dismissed after conducting departmental inquiry wherein, the Second party participated along-with his defence representative and defended his case. In said inquiry, the charges framed against the Second Party were proved. It is contended that after dismissal the Second party preferred an appeal with the appellate authority i.e. the erstwhile Zonal Manager, Pune Zone and the appellate authority confirmed the punishment of the Second party. The First Party raised a plea that the Second Party was terminated in the year 2000 and he approached the office of Labour Commissioner in the year 2003 hence, reference is hopelessly barred by limitation. It is contended that if the Court comes to the conclusion that the findings of the Inquiry Officer are perverse, then, the First Party may be given opportunity to prove the misconduct of the Second Party by leading evidence in Court. It is contended that the Second Party was dismissed from service for the misconduct proved against him by following due proedure of law. Lastly, it is contended that the reference may be rejected.

4. In view of the rival pleadings of both the parties, the following preliminary issues were framed by my learned predecessor vide Exh. O-3. The said preliminary issues are reproduced herein below with my findings thereon for reasons to follow :

PRELIMINARY ISSUES	FINDINGS
1)Whether the inquiry is legal, fair and proper?	Yes.
2)Whether the findings given by the Inquiry Officer are perverse?	No.
3)What order?	As per final Order.

R E A S O N S

As to Preliminary Issue No.1 :-

5. In the instant case, the Second Party has admitted in his pleading that he was issued charge-sheet dated 16.10.1999 to which he filed reply vide reply dated 26.11.1999 and denied the charges leveled against him. He also admitted that he has participated in departmental inquiry along-with his defence representative. He has submitted that the management examined 11 witnesses and he examined himself. He also admitted that he has submitted his defence statement on 11.06.2000 and thereafter, the Inquiry Officer gave report of his findings on 11.07.2000. The Second Party nowhere brought on record that he was not allowed to cross examine the witnesses of the management. He has nowhere pleaded that during departmental inquiry, he raised any objections which were not considered by the Inquiry Officer. All these facts clearly shows that the inquiry was held against the Second Party by following principles of

natural justice and it was a fair and proper inquiry. In fact, the Second Party failed to bring on record that the inquiry held against him was unfair and improper. I, therefore, answered Preliminary Issue No.1 in the affirmative.

As to Preliminary Issue No. 2 :-

6. The charges leveled against the Second Party vide charge-sheet dated 16.10.1999 that he fraudulently withdrawn and misappropriated the deposits of the customers. The Inquiry Officer gave findings in his report of findings dated 11.07.2000 that the charges leveled against the Second Party are proved. However, in the present case, vide order below Exh. C-6 dated 13.09.2022 the First Party is directed to produce the documents whatever available in original and to produce photo copies of the remaining documents available with it. According to the First Party, the original documents were destroyed as per the practice of the bank. The First Party failed to file on record the evidence of its 11 witnesses as well as the evidence of the Second Party recorded before Inquiry Officer. So, in absence of the evidence, it is not possible to decide whether the findings of the Inquiry Officer based upon the evidence brought on record before him. Therefore, in absence of the evidence led before the Inquiry officer, it cannot be said that the findings of the Inquiry Officer is based on the evidence brought before him and not perverse.

7. In order to prove contention of the First Party, its learned counsel relied upon the case of **Pravin Kumar Vs. Union of India & Ors., MANU/SC/0679/2020** wherein, the Hon'ble Apex Court held that, *"Where an appellate or reviewing Court/authority comes to a different conclusion, ordinarily the decision under appeal ought not to be disturbed in so far as it remains plausible or is not found ailing with perversity. The present case is neither one where there is no evidence, nor is it one where we can arrive at different conclusion than the disciplinary authority."*

8. The learned counsel for the First Party further relied upon the case of **Employers Management West Bokaro Colliery of TISCO Ltd Vs. Concerned Workman., MANU/SC/0814/2008** wherein, the Hon'ble Apex Court held that, *"Where two views are possible on the evidence on record, then the Industrial Tribunal should be very slow in coming to a conclusion other than the one arrived at by the domestic Tribunal by substituting its opinion in place of the opinion of the domestic Tribunal."*

9. However, in the present case, as discussed above there is absolutely no evidence brought on record which was led before the Inquiry Officer on the basis of which he gave his findings. Therefore, in such circumstances, it was not possible to held that the findings of the Inquiry officer are based on the evidence brought before him. Therefore, the aforesaid authorities on totally different facts and circumstances are not helpful to the First party to prove its contention in the present case having totally different facts. I, therefore, held that the findings of the Inquiry Officer against the Second Party are not based on evidence brought before him and perverse. I, therefore, answered Preliminary Issue No. 2 in the negative.

10. In the result, I pass following order :

AWARD

1. It is hereby declared that the departmental Inquiry held against the Second Party was fair, proper and legal and held as per the principles of natural justice.
2. It is hereby declared that the findings given by the Inquiry Officer against the Second Party are not legal and proper but perverse.
3. The copy of Part I Award be sent to appropriate Government for publication.
4. No order as to the costs.

Date : 09.08.2024

K. N. GAUTAM,, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2024

का.आ. 2110.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण/श्रम न्यायालय पुने के पंचाट (17/2022) प्रकाशित करती है।

[सं. एल - 12011/39/2022- आई आर (बी-II)]

सलोनी, उप निदेशक

New Delhi, the 13th November, 2024

S.O. 2110.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.17/2022) of the *Indus.Tribunal-cum-Labour Court Pune* as

shown in the Annexure, in the industrial dispute between the management of Bank of Maharashtra and their workmen.

[No. L-12011/39/2022- IR (B-II)]

SALONI, Dy. Director

ANNEXURE

IN THE INDUSTRIAL TRIBUNAL AT PUNE

Presided Over by SHRI. K. N. GAUTAM

Reference IT NO. 17 OF 2022

The Chairman and Managing Director,

Bank of Maharashtra
Lokmangal, Shivajinagar,
Pune 411 005 First Party

VERSUS

The President,
Mahabank Navnirman Sena
Yashoda co-op. Housing Society, Ranade Road,
Extension, Dadar,
Mumbai 400028 Second Party

A W A R D
(Dated : 21.09.2024)

This is a reference made by Government of India vide order dated 22.04.2022 under Section 10(1)(d) and 10(2A) of the Industrial Disputes Act, 1947 in respect of that whether the Bank of Maharashtra indulged in unfair labour practices by engaging the workmen for long spell in the perennial nature of work and whether the demand of Mahabank Navnirman Sena for regularization / permanency of 13 part time sweepers is justified, legal and proper.

2. After receiving the said reference, notices were issued to both parties and both the parties and only First Party appeared. However, the Second Party though served with notice by registered post on 13.06.2022 and through Bailiff on 02.06.2022, but failed to appear since last more than two years and failed to take steps to proceed with the reference. Hence, it appears that the Second Party do not want to proceed with the reference. Hence, the reference is disposed of for want of prosecution. Therefore, I have no alternative, but to answer the reference in the negative. With this, I proceed to pass the following award :-

AWARD

1. The reference is answered in the negative.
2. No order as to costs.
3. The copies of this award be sent to the appropriate authority of the Government.

Date : 21.09.2024

K. N. GAUTAM,, Presiding Officer

नई दिल्ली, 13 नवम्बर, 2024

का.आ. 2111.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार यूनियन बैंक ऑफ इंडिया के प्रबंधतत्र, संबद्ध नियोजको और उनके कर्मकारो के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (78/2021) प्रकाशित करती है।

[सं. एल - 39025/01/2024- आई आर (बी-II)-42]

सलोनी, उप निदेशक

New Delhi, the 13th November, 2024

S.O. 2111.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref.78/2021) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court Lucknow* as shown in the Annexure, in the industrial dispute between the management of Union Bank of India and their workman.

[No. L-39025/01/2024- IR (B-II)-42]

SALONI, Dy. Director

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL –CUM- LABOUR COURT

LUCKNOW

PRESENT

JUSTICE ANIL KUMAR

PRESIDING OFFICER

I.D. No. 78/2021

BETWEEN

Rajesh Kumar Gaur S/o Shir Ram Kishun Gaur

Vill- Jakhania Govind, PO-Jakhania, Opp. Union Bank, Jamaniya Branch

District - Ghazipur - 233001

AND

Regional Manager, Union Bank of India

Shubhra Motel Complex, Mahuwa Bhagh Gajipur- 257203.

AWARD

Facts of the case:

Sri Rajesh Kumar Gaur/claimant filed claim petition before this Tribunal on 12.07.2021, facts in brief and relief claimed by claimant are as under:-

Workman Rajesh Kumar Gaur was appointed as peon in the Union Bank of India, Jamani branch, Gajipur (U.P.) and he works in the said capacity till 06.08.2010; however, his services are terminated on 06.08.2010.

In view of the above said factual background the present claim petition has been filed under Section 2-A, with the following relief quoted herein below:-

"क- दिनांक 06.08.2010 की गयी सेवा समाप्ति आदेश को अवैध ठहराये तथा नौकरी की वरिष्ठता के साथ कार्य पर बहाल कराये।

ख- बेकारी अवधि का वेतन व अन्य लाभ दिलाये।

ग- वाद का परिव्यय भी दिलाये।"

On behalf of respondent written statement was filed on 20th March 2023 in which the following preliminary objection was taken:-

Present claim statement filed under Section 2-A of the Industrial Dispute Act, 1947, is bad in the eye of law, inter-alia on the following grounds:-

(a) Because claim filed by applicant is belated one and specifically barred by the law of the limitation as such on this score application is liable to be rejected.

(b) Because applicant Sri Rajesh Kumar Gaur was not employed/appointed in the services of the Bank as such there was no question of termination of his services as mentioned in the claim statement by applicant.

(c) Because there was no employer and employee relationship between Sri Rajesh Kumar Gaur and opposite party bank at any point of time as such, he does not fall under the purview of the provisions of definition of workman as envisaged under Section 2(s), Industrial Dispute Act, 1947 as such there is no question of application of any provisions of Industrial Dispute Act,1947.

(d) Because present application is out of the purview of provisions as contained in Section 2(K) of Industrial Dispute Act, 1947.

Accordingly it is submitted by the respondent that present case filed by claimant is liable to be dismissed as barred by limitation.

I have heard learned counsel for claimant/workman Sri Vijay Vishwakarman and Sri Gunjan Gupta on behalf of respondent and gone through the record.

In order to decide the preliminary objection, taken by respondent, it will be appropriate to go through aims and objects of Industrial Dispute Act, 1947.

In brief which, the same are that Industrial Disputes Bill was introduced by the Government of India in the Legislative Assembly on the 28th October 1946. After the Select Committee's report on 3rd February 1947, with some amendments, it was passed in March 1947 and became the law from Ist April 1947 repealing the Trade Disputes Act 1929.

While retaining most of the provisions of the earlier law, this Act introduced two new institutions for the prevention and settlement of industrial disputes; works committees consisting of representatives of employers and workers; and machinery for industrial adjudication.

A reference to an industrial tribunal under this Act lies where both parties to any industrial dispute apply for such reference, and also where the appropriate Government considers it expedient so to do. An award of a tribunal has normally to be enforced by the Government and is binding on both parties to the dispute for such periods as may be specified, upto a maximum of one year. This Act seeks to give a new orientation to the entire conciliation machinery.

Another important new feature of the Act is the prohibition of strikes and lockouts during the pendency of conciliation and adjudication proceedings of settlements reached in the course of conciliation proceedings and of awards of industrial tribunals declared binding by the appropriate government.

Rules, orders or notifications requiring the larger industrial establishments to set up works committees were issued by the Government of India and most of the State Governments.

Objectives: General

The objectives of industrial relations and industrial disputes legislation, may be outlined as under:-

(i) Industrial Peace: For prosperity of industry, it is necessary that there be a continuous and growing production which is only possible if (a) there are no interruptions and stoppages in production i.e. absence of disputes, and (b) if the various agencies of production are satisfied and are in a harmonious bent to work. In other words, industrial peace is very necessary for the vitality of industry.

(ii) Economic Justice: All interruptions in production arising out of industrial dispute are really caused by the dissatisfaction of labour with their existing economic condition. The history of labour struggle is nothing but a continuous demand for fair return to labour expressed in varied forms e.g. (a) increase in wages, (b) resistance to decrease in wages, (c) grant of allowances and benefits etc.(***Hariprasad Vs. A.D.Divelkar, AIR 1957 SC 121***)

Social and economic justice which is the bedrock of our Constitution and economic organization also requires that any industrial relations or disputes legislation, to be effective remedial statute, must embrace not only law for regulation of labour relations with capital, process for channelizing collective bargaining methods for negotiation, mediation, conciliation and settlements of industrial conflict, but also a system for giving fair play and justice to labour and removal of economic injustice.

The preamble of the Act states that its main object is to make provision for investigation and settlement of industrial disputes. Viewed in the above background, the Industrial Disputes Act 1947 is a progressive piece of social legislation and is designed to settle the disputes on a new pattern known under the Act as adjudication machinery. The object of all labour legislation is to ensure fair wages and to prevent disputes so that production might not be adversely affected. (***Banaras Ice Factory Ltd. Vs. Its Workmen, AIR 1957 SC 167***)

The purpose of the Act is to provide machinery for a just and equitable settlement by adjudication, (***G. Claridge and Company Ltd. Vs. Industrial Tribunal, Bombay, AIR 1951 Bombay 100***) and amelioration of the conditions of workmen in industry.

Individual and collective industrial disputes: Individual as well as collective disputes may ripen into industrial disputes. The true nature of an individual dispute is that it is a collective dispute. Though a dispute may at the inception be initiated by an individual, yet if it is taken up by the fellow-workers or a union, or a sufficient number of workers, it may assume the collective character and would become an industrial dispute. (**Standard Vacum Oil Co. Errakulam Vs. I.Tribunal, Errakulam 1952-II LLJ 612**). A dispute which continues to retain its individual character cannot be regarded as an industrial dispute. This being the basic law, it is within the competence of the legislature to widen or narrow the coverage of an industrial dispute. The Industrial Disputes Act has also been amended to cover some individual disputes. It is not necessary that a majority should take an industrial dispute. It is sufficient if a substantial group of workmen take it up. When thus taken, it becomes an industrial or collective dispute.

Individual dispute an industrial dispute: The important amongst the above are however the amendments of 1965. By the Act of 1965, a new Section 2A has been added in Act whereby specified categories of individual disputes are also deemed to be industrial disputes. The section reads as under:

"*2A. Dismissal, etc of an individual workman to be deemed to be industrial dispute-*

Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute."

This amendment revives, impediment in the way of workman with the necessity that to make an industrial dispute it must be taken up or espoused by substantial section of the workmen or any union of those workmen and gives an individual workman a remedy for security of his service and indirectly freedom to join or not to join any union. Thus, individual disputes could be referred to Tribunal as per Section 2A after 1.12.1965. (**National Productivity Council, 1969-II LLJ 186**).

Thereafter, by Industrial Disputes (Amendment) Act 2010 (Act No. 24 of 2010), Section 2A(a), was renumbered as Sub-section (1) and by the same Act i.e. Act No.24 of 2010 Sub-section (2) and Sub-section (3) have been inserted after Section 2A (1) of Industrial Dispute Act 1947 which came into effect w.e.f. 15.09.2010, which reads as under:

"2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute -

"(1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(2) Notwithstanding anything contained in Section 10, any such workman as is specified in sub-Section(1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-Section(2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section(1)."

Now the core question to be considered is that in view of the facts which are stated hereinabove, that admittedly the services of applicant was terminated on 06.08.2010, thereafter he has filed the present case before this Tribunal u/s 2A of the Act on 12.07.2021 on the grounds as taken by him in his claim petition, is maintainable or barred by the period of limitation as provided u/s 2A(3) of the Act.

Answer to the said question find place in the judgment passed by Hon'ble the Karnataka High Court in ***ITC Infotech India Ltd. vs. Venkataramana Uppada ILR 2016 Karnataka 3041***, relevant potion quoted as under:

"19. Keeping the above principles in mind, a reading of Section 2A(3) would lead to an irresistible conclusion that time stipulated for invoking the jurisdiction of the Labour Court or the Tribunal as the case may be, has to be necessarily "before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-Section (1)." Time limit for making an application to the Labour Court stipulated in sub-Section (3) of Section 2A does not appear to have a bearing to the provisions of sub-Section (2) of Section 2A. In any event right conferred under Section 2A would lapse immediately preceding the date of expiry of three years from the date of dismissal, discharge etc.,. In other words, the limitation of three years prescribed under sub-Section (3) of Section 2A being mandatory, same cannot be condoned by taking recourse to Section 5 of the Limitation Act, 1963 which has no application to the provisions of Industrial Disputes Act, 1947.

20. It is well settled principle that if an act is required to be performed within a specified time, the same would primarily be mandatory. It has been held in the case of NAZIRUDDIN VS SITARAM AGARWAL reported in AIR 2003 SCW 908 to the following effect:

"The Courts jurisdiction to interpret a statute can be invoked when the same is ambiguous. It is well known that in a given case, the Court can iron out the fabric but it cannot change the texture of the fabric. It cannot enlarge the scope of legislation or intention when the language of provision is plain and unambiguous. It cannot add or subtract the words to a statute or read something into it which is not there. It cannot re-write or recast legislation. It is also necessary to determine that there exists a presumption that the legislature has not used any superfluous words. It is well settled that the real intention of legislature must be gathered from the language used."

21. Thus, in the background of the dicta of the Apex Court in NAZIRUDDIN's case referred to supra, when Section 2A is perused, it would indicate that if the legislature really intended that the period of limitation provided in sub-Section (3) of Section 2A was to be construed as directory, then it would not have prescribed the limitation of three years and it would have used the words "at any time" instead of using the words "before the expiry of three years". Though the words at any time' is found in Section 10(1), same is conspicuously absent in sub-Section(3) of Section 2A which would clearly depict the intention of the legislature namely, it had deliberately imposed limitation period under sub-Section (3) of Section 2A and as such legislature did not employ the words at any time' in the said provision as found in Section 10(1) and in its place, it has specifically incorporated the words before the expiry of three years'. Hence, to interpret the period of limitation found in sub-Section (3) of Section 2A as directory and not mandatory would amount to adding something which is not provided in the provision by the legislature or it would amount to doing violence to the provision, if such interpretation is sought to be made."

And Hon'ble Rajasthan High court in the case of ***Pankaj Swami vs. Rajasthan State Road Transport Corporation & ors. MANU/RH/1788/2019*** after taking into consideration the provisions of sedation 2A(2) & 2A(3) of the Act held as under:

"The provisions are explicit, wherein the workman can approach the Labour Court for adjudication of the dispute in case of discharge, dismissal, retrenchment etc., however, sub-section (3) provides that the application should be made to the Labour Court before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified.

8. The submission made by learned Counsel for the petitioner that as the cause of action arose to the petitioner prior to introduction of the provision of limitation by sub-section (3) the same would have no application is concerned, the submission made is fallacious, inasmuch as, the provision under which the application has been filed by the petitioner i.e. section 2-A(2) of the Act, itself was introduced by the amendment Act of 2010 alongwith the limitation therein and therefore, the provision of limitation which was introduced in the year 2010 alongwith the main provision providing for the limitation would apply with all force and the submission that the same would have no application to the cause of action, which arose prior to 2007, has no basis.

The submissions as made, if accepted, would result in circumstances where if the cause of action has arisen post 2010, the same would be barred, whereas the causes, which arose prior to 2010 like in the year 2007 in the present case and the application is filed after 7 years, the same would never become barred by limitation, such a result is legally untenable.

9. The submission made by learned Counsel for the petitioner that as the petitioner had approached the Conciliation Officer and had raised the dispute before him, where there was no limitation and the petitioner approached the Labour Court only as per the directions of the Conciliation Officer the claim could not be rejected by barred by limitation also does not advance the cause of the petitioner, inasmuch as, the petitioner could have taken advantage of the said position, if the Conciliation Officer had sent a failure report to the appropriate Government who in turn had referred the dispute to the Labour Court. Merely because the Conciliation Officer suggested approaching the Labour Court, which suggestion was accepted by the petitioner, cannot be termed as a reference under section 10 of the Act to the Labour Court.

10. In view of the above discussion in so far as the rejection of the claim of the petitioner by the Labour Court being barred by limitation is concerned, the same cannot be faulted."

And in the case of ***Parthasarathy vs. Souther Pins and Products Pvt. Ltd. and Ors. MANU/TN/6691/2020*** Hon'ble the High Court of Madras has held as under:

"Inasmuch as the notice of termination of the Petitioner in the present case has been made on 06.10.2014 under Section 2-A(2) of the Act after the said amendment has come into force, the limitation of three years prescribed under Section 2-A(3) of the Act would necessarily apply. As such, there is no infirmity in the decision-making process of the Labour Court in refusing to entertain the application made by the Petitioner has time barred. This view is supported by the decisions of this Court in the following cases:-

(i) ITC Infotech India Ltd. v. Venkataramana Uppada (Order dated 03.03.2016 in W.P. No. 27510 of 2015 passed by the High Court of Karnataka)

(ii) Management of Ashok Leyland v. Presiding Officer, Labour Court (Order dated 13.04.2016 in W.P. Nos. 9640 and 9641 of 2016 passed by this Court)

(iii) Ravi Kumar v. Management, Tamil Nadu State Road Transport Corporation (Order dated 11.04.2017 in W.P. (MD) No. 4269 of 2017 passed by the Madurai Bench of this Court)

(iv) K. Settu v. Assistant Engineer, Tamil Nadu Electricity Board (Order dated 20.09.2019 in W.P. No. 8413 of 2019 passed by this Court)

5. A feeble attempt is made on behalf of the Petitioner to suggest that the period of conciliation must be excluded while computing the limitation. It is, no doubt, true that Section 2-A(2) of the Act contemplates such application to be made to the Labour Court after the expiry of 45 days from the date of application to the Conciliation Officer is made. However, it does not require that the conciliation proceedings should have been completed before making that application under Section 2-A(2) of the Act. The words in Section 2-A(3) of the Act are clear enough that the limitation has to be reckoned on the expiry of three years from the date of termination. The Petitioner in the instant case had made the application for conciliation on 12.04.2017 which had also concluded on 27.06.2017, but the Petitioner had not approached the Labour Court after 45 days either from 12.04.2017 or even from 27.06.2017. As such, the contentions made on behalf of the Petitioner cannot be countenanced."

(see also Kandasamy Spinning Mills Private Ltd. vs S. Palanisamy and Ors. MANU/RN/6831/2019

Thus, in view of above said fact, combined reading of section 2A (2) and 2A (3) of the Act, the legal position which emerge out is that if a workman is aggrieved by order of discharge, dismissal, retrenchment or otherwise termination, he may approach the Tribunal within a period three years from dated of passing of order.

Taking into consideration, above said facts and position of law as well that "if law provides a particular thing that all other modes or methods of doing that thing must be deemed to have been prohibited", the said proposition of law is first held in the case of ***Tylor Vs. Tylor (1875) LR 1 ChD 426*** and adopted later by the ***Judicial Committee in Nazir Ahmed Vs. King Emperor AIR 1936 PC 253*** and thereafter by the Hon'ble Supreme Court in a series of judgments including those in ***Rao Shiv Bahadur Singh & another Vs. State of Vindhya Pradesh AIR 1954 SC 322, State of Uttar Pradesh Vs. Singhara Singh AIR 1964 SC 358, Chandra Kishore Jha Vs. Mahavir Prasad 1999 (8) SCC 266, Dhananjaya Reddy Vs. State of Karnataka 2001 (4) SCC 9 and Gujarat Urja Vikas Nigam Ltd. Vs. Essar Power Ltd. 2008 (4) SCC 755***.

In the case of ***Grasim Industries Ltd. Vs. Collector of Customs, Bombay, (2002) 4 SCC 297***, the Hon'ble Supreme Court held as under:-

"No words or expressions used in any statute can be said to be redundant or superfluous. In matters of interpretation one should not concentrate too much on one word and pay too little attention to other words. No provision in the statute and no word in any section can be construed in isolation. Every provision and every word must be looked at generally and in the context in which it is used. It is said that every statute is an edict of the legislature. The elementary principle of interpreting any word while considering a statute is to gather the mens or sententia legis of the legislature. Where the words are clear and there is no obscurity, and there is no ambiguity and the intention of the legislature is clearly conveyed, there is no scope for the Court to take upon itself the task of amending or alternating the statutory provisions. Wherever the language is clear the intention of the legislature is to be gathered from the language used. While doing so what has been said in the statute as also what has not been said has to be noted. The construction which requires for its support addition or substitution of words or which results in rejection of words has to be avoided".

Hon'ble the Apex Court in the case of ***Bhavnagar University Vs. Palitana Sugar Mill (P) Ltd., (2003) 2 SCC 111***, held as under:-

"24. True meaning of a provision of law has to be determined on the basis of what provides by its clear language, with due regard to the scheme of law.

25. Scope of the legislation on the intention of the legislature cannot be enlarged when the language of the provision is plain and unambiguous. In other words statutory enactments must ordinarily be construed according to its plain meaning and no words shall be added, altered or modified unless it is plainly necessary to do so to prevent a provision from being unintelligible, absurd, unreasonable, unworkable or totally irreconcilable with the rest of the statute".

In the case of ***Harshad S. Mehta Vs. State of Maharashtra, (2001) 8 SCC 257***, it has been held as under:-

"There is no doubt that if the words are plain and simple and call for only one construction that construction is to be adopted whatever be its effect".

In the case of ***Union of India Vs. Hansoli Devo (2002) 7 SCC 273***, Hon'ble the Supreme Court observed as under:-

"9.It is a cardinal principle of construction of statute that when language of the statute is plain and unambiguous, then the court must give effect to the words used in the statute and it would not be open to the courts to adopt a hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act."

In the case of ***Patango Kadam Vs. Prithviraj Sayajiro Yadav Deshmukh (2001) 3 SCC 594***, took the view:-

"12. Thus when there is an ambiguity in terms of a provision, one must look at well-settled principles of construction but it is not open to first to create an ambiguity which does not exist and then try to resolve the same by taking recourse to some general principle."

Also, Hon'ble the Supreme Court in the case of ***Popat Bahiru Govardhane & others vs. Special Land Acquisition Officer & another (2013) 10 SCC 765*** has held as under:

"16. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim dura lex sed lex which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute. "A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation."

(See Martin Burn Ltd. v. Corpn. of Calcutta10, AIR p. 535, para 14 and Rohitash Kumar v. Om Prakash Sharma11.)

In view the above said facts as well as that the workman/Sri Rajesh Kumar Gaur cannot derive any benefit from the facts on which he has approached the Tribunal after expiry of period three years from the date of his termination, because his services were terminated on 06.08.2010, filed the present case on 12.07.2021 u/s 2A (2) of the Act, as such, the claim petition is barred by the period of limitation as provided u/s 2A (3) of the Act, liable to be rejected.

In addition to above, the claimant by his application dated 10.07.2023, has prayed for withdrawal of present industrial dispute, relevant portion quoted hereunder:

> *"1. That the workman had filed this instant case Hon'ble C.G.I.T is pending since 2021.*
>
> 2. *That now the workman wants to withdraw this instant case as the relevant facts and concerning documentary evidences are not incorporated in the instant case due to wrong advice and legal guidance. Now, the case is not in intial stages and not mature. Therefore, it is humbly prayed that this Hon'ble C.G.I.T. kindly be pleased to allow the workman to withdraw the instant case and also grant liberty to file a fresh case with proper legal advice and guidance before appropriate court in the interest of justice."*

Authorized representative of the workman on the basis of said application submits that he does not want to press the present industrial dispute and the same may be dismissed as not pressed.

Learned counsel for respondent has no objection to above prayer.

Accordingly, in view of the above said facts, the claim of workman is dismissed as not pressed; and also being barred by period of limitation as per section 2A (3) of the Industrial Disputes Act, 1947, with liberty to the claimant to pursue its case before appropriate forum as per law.

Award as above.

LUCKNOW.

21st June, 2024

Justice ANIL KUMAR,, Presiding Officer

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